



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-1-24 Obed Sanchez Rivera, Et.al

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: February 21, 2024.

CERTIFICATE OF SERVICE

This is to certify that on 6/18/2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is placed over a horizontal line.

Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioners: Obed Sanchez Rivera, Et.al

Appeal No.: V-1-24

Subject Property: Lot 1, Block B, Rogers Height Subdivision, being 5507 Emerson Street, Hyattsville, Prince George's County, Maryland

Witness: Juan Swann, Inspector, Department of Permitting, Inspection and Enforcement (DPIE)

Spanish Language Interpreter: Ruben Sotogomez

Heard and Decided: February 21, 2024

Board Members Present and Voting: Carl Isler, Vice Chairman

Renee Alston, Member

Teia Hill, Member

Board Member Absent: Bobbie S. Mack, Chairperson

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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve variances from Section 27-4202(e)(1) prescribes that no more than 35% of the net lot area shall be covered by buildings and off-street parking. Section 27-4202(e)(2) prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-11002 (1)(a) prescribes that no parking space, parking area, or parking surface other than a driveway no wider than its associate garage, carport, or other parking structure may be built in the front yard. Petitioners propose to validate existing conditions (parking area location, front yard, and lot coverage) and obtain a building permit for the proposed one-story addition (14'.3" x 9'.5"). Variances of 2.6% net lot coverage, 2 feet front yard depth, and waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1942 before the adoption of the Prince George's County Zoning Ordinance, contains 7,200 square feet, is zoned RSF-65 (Residential, Single-Family-65), and is improved with a single-family dwelling, driveway, and shed. Exhibits (Exhs.) 2, 4, 7, 8, and 9 (A) thru (F).

2. The subject property is a corner lot, with the legal front yard facing Emerson Street. The property is not located within a municipality, nor is there a homeowner association. The property elevation is higher in the rear yard, which explains the need for the 3-foot retaining wall. Exhs. 2, 4, 7, 8, and 9 (A) thru (F).

3. Petitioners propose to validate existing conditions (parking area location, front yard, and lot coverage) and obtain a building permit for the proposed one-story addition (14'.3" x 9'.5"). Variances of 2.6% net lot coverage, 2 feet front yard depth, and waiver of the parking area location requirement are requested. Exhs. 2, 3 (A) thru (B) and 5 (A) thru (I).

4. Petitioner Sanchez testified that the kitchen is extremely small, and the addition would allow additional space in the kitchen. Exhs. 2, 3 (A) thru (B) and 5 (A) thru (I).

5. Petitioner noted that the concrete area existed when he purchased the home. He has not made any improvements to the property. Exhs. 2, 3 (A) thru (B) and 5 (A) thru (I).

6. Vice Chair Isler questions the need for an apron permit for the existing driveway. Administrator Stone believes that since it exists, she does not believe an apron permit is necessary. Exh. 2.

7. Vice Chair Isler questioned the Petitioner if the gravel portion will be paved? Petitioner noted that no, it is not his intention to pave the gravel portion of his property. Exh. 2.

8. Administrator Stone noted that once the addition is built, part of the driveway will be removed. Is that correct? Mr. Sanchez stated yes. Vice Chair Isler commented that it will be just a small portion. Petitioner questioned that if he removed part of the gravel area, would it mitigate the problem? Administrator Stone noted that it would reduce the lot coverage area. Petitioner noted that he can remove the gravel area if needed. Administrator Stone responded that revised plan would be needed. Exhs. 2 and 5 (A) thru (I) and 9 (A) thru (F).

9. Administrator Stone questioned the Petitioner; if the Board did not approve your variance, how would that affect you? Petitioner stated that it would be very difficult, because the kitchen is so small. There are nine (9) people living in the residence. So, when everyone is there is very difficult. The dining room is also very small, so all of the family cannot eat as once. The house is only approximately 914 square feet,

10. Inspector Juan Swann stated that an apron is not uniform with the street. It appears to be wider than the other driveway aprons, but again looking at historical data, the driveway was there in 2007. It can be considered preexisting and would not require an apron permit.

11. Mr. Sanchez noted that the house was built in 1944. Exh. 7.

12. Vice Chair Isler noted that the lot is unique as it is a corner lot that is different from his surrounding neighbors. Exhs. 2 and 4.

13. Petitioner noted that the 3-foot "wall" was preexisting when the property was purchased. Exh. 2.

14. Administrator Stone noted to the Petitioner that a permit issued from DPIE will be needed for the retaining wall.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features).
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.

- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Findings of the Board

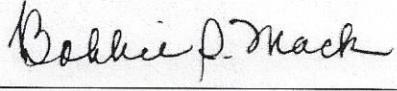
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to the unique shape of the Petitioner's property sitting on a corner lot, the home being built in 1944, before the adoption of zoning standards in Prince George's County, at approximately 914 square feet, the need for additional square footage for a large family 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. Furthermore, the particular uniqueness of Petitioner's property causes a zoning provision to impact disproportionately upon his property. Additionally, the Board determined that this is the minimally reasonably necessary variance to overcome the exceptional physical conditions on the Petitioner's property. Lastly, the Board accounted for Inspector Swann's testimony to determine Petitioner's constructing the apron permit before receiving a permit was not self-inflicted due to it being constructed in 2007 and did not require an apron permit at that time.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Mack absent, that variances of 2.6% net lot coverage, 2 feet front yard depth, and waiver of the parking area location requirement in order to validate existing conditions (parking area location, front yard, and lot coverage) and obtain a building permit for the proposed one-story addition (14'3" x 9'5") on the property located at 5507 Emerson Street, 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 elevation plans, Exhibits 3 (A) thru (B).

BOARD OF ZONING APPEALS

By:



Bobbie S. Mack

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:



Ellis Watson

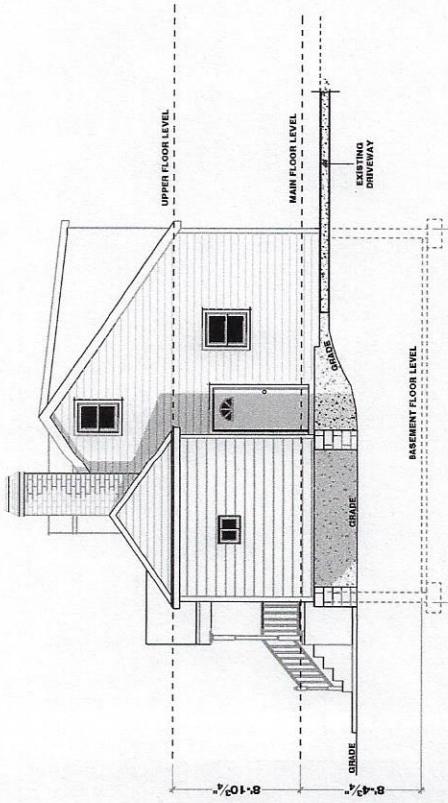
Ellis Watson, Esq.

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.

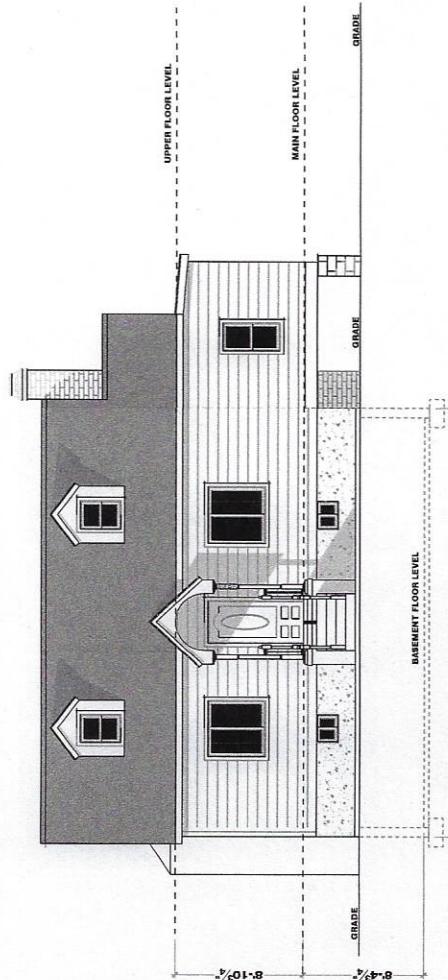
Further, Section 27-3613 (c)(10)(B) of the Prince George's County Code states:

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.



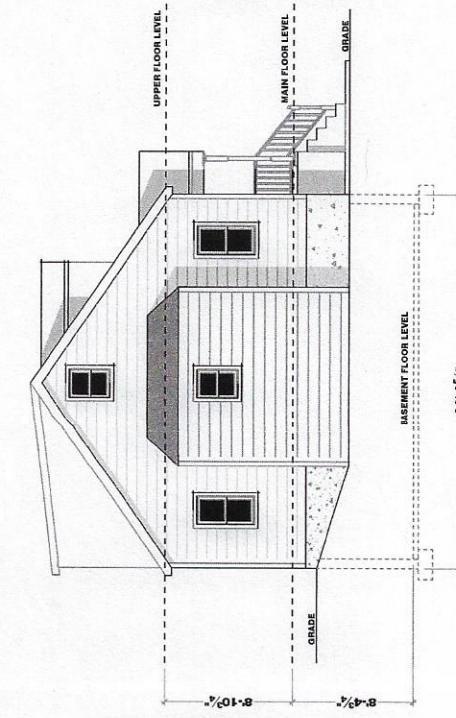
EXISTING - RIGHT ELEVATION -

SCALE: 1/4" = 1'-0"



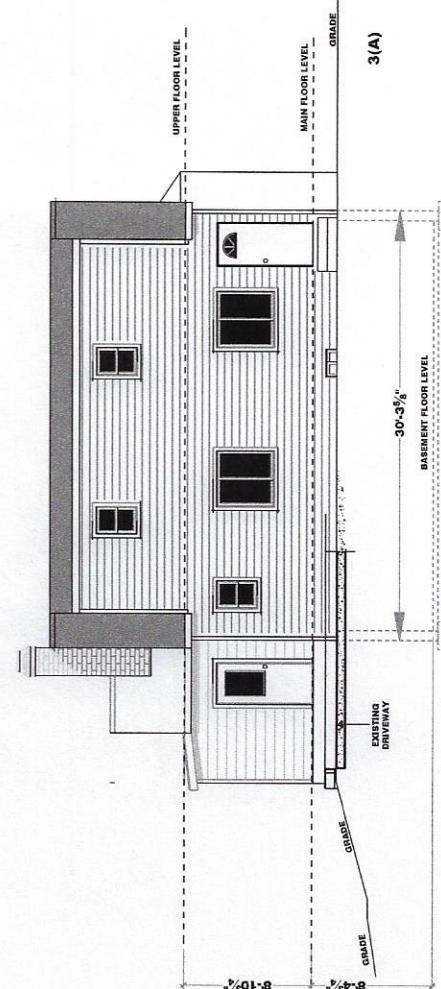
EXISTING - FRONT ELEVATION -

SCALE: 1/4" = 1'-0"



EXISTING - LEFT ELEVATION -

SCALE: 1/4" = 1'-0"



EXISTING - REAR ELEVATION -

SCALE: 1/4" = 1'-0"

BOARD OF APPEALS

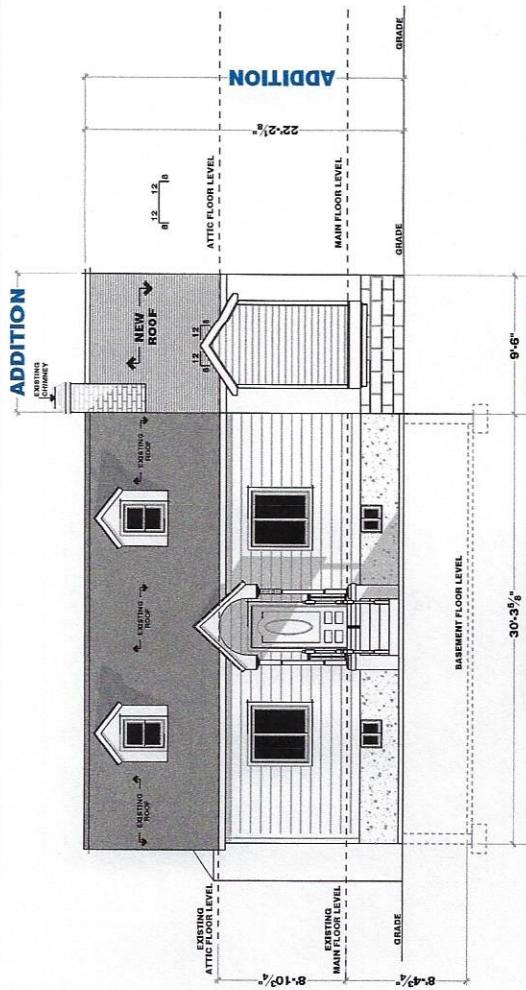
APPROVED  FEB 21 2024

ADMINISTRATOR

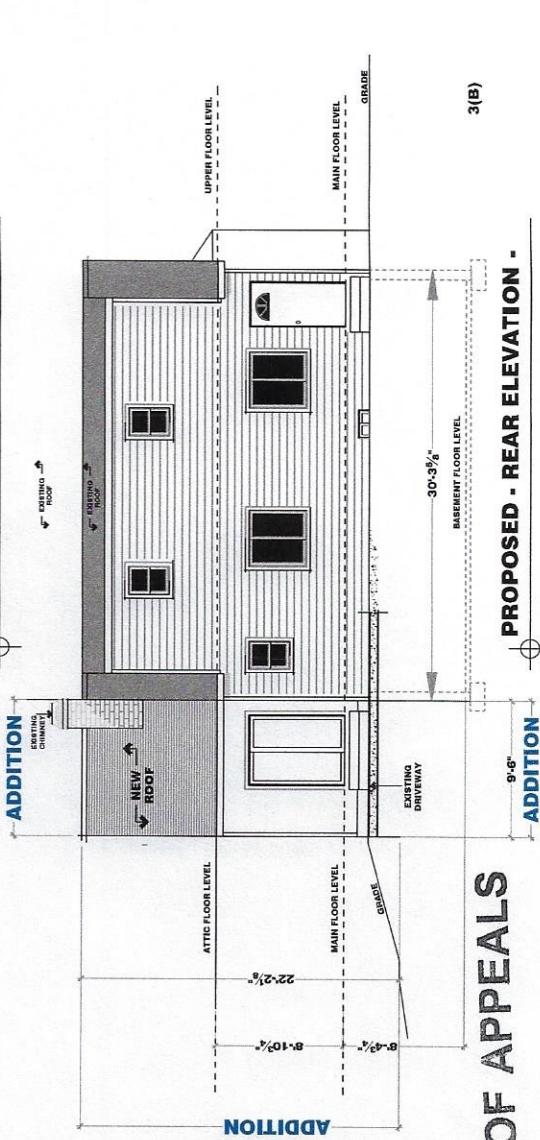
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PROJ. #:	214-3	• EXISTING FRONT ELEVATION	
OWNER:	Obd. Jonathan Sanchez	• EXISTING REAR ELEVATION	
	Rivera	• EXISTING RIGHT ELEVATION	
		• EXISTING LEFT ELEVATION	
		• NEW ELEVATION	

ENR. #:	3(A) B	CODE YEAR:	
REV. #:	V1.2	OWNER:	

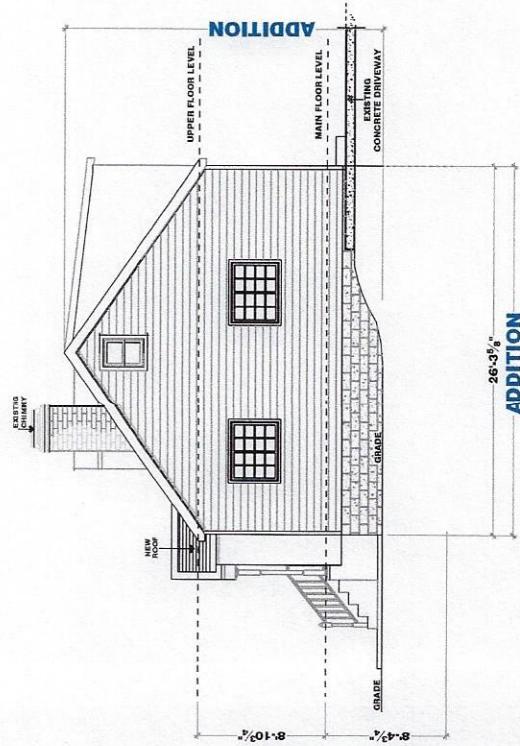
SHEET NO.



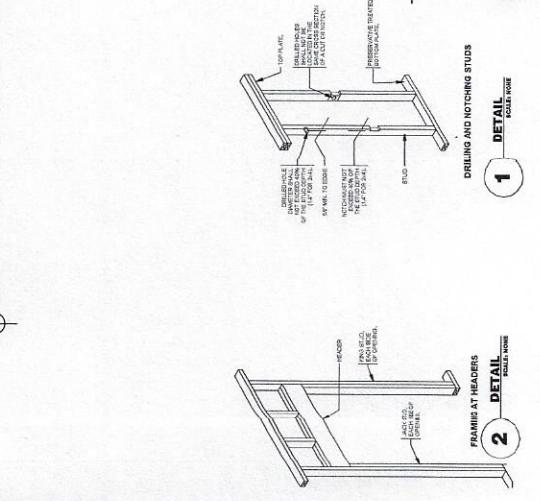
PROPOSED - FRONT ELEVATION



PROPOSED - REAR ELEVATION



PROPOSED - RIGHT ELEVATION



BOARD OF APPEALS

APPROVED FEB 21 2014

SB Sánchez
ADMINISTRATOR

PROJECT NAME:	5507 • ADDITION	CONTENTS:	• PROPOSED - FRONT ELEVATION
ADDRESS:	5507 Emerson St Tucson, AZ 85711	• PROPOSED - REAR ELEVATION	• PROPOSED - RIGHT ELEVATION
	Obed Jonathan Sanchez Rivera	• EXISTING ELEVATION	

CODE YEAR:		SHEET No.	