

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-2-16 Dianita Property Management Company LLC

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 24, 2015 .

CERTIFICATE OF SERVICE

This is to certify that on March 4, 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
Town of Fairmount Heights
Other Interested Parties

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

Petitioner: Dianita Property Management Company LLC

Appeal No.: V-2-16

Subject Property: Lots 12, 13 & 14, Block O, Fairmount Heights Subdivision, being 509 Eastern Avenue,
Capitol Heights, Prince George's County, Maryland

Municipality: Town of Fairmount Heights

Counsel for Petitioner: Dennis Whitley, III, Shipley & Horne, P.A.

Witness: Marvin Daniels, principal agent of Dianita Property Management Company LLC

Heard and Decided: February 24, 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, Petitioner requests 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 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 obtain a building permit for a new (replacement) two-level covered front porch. Variances of 22 feet front yard depth and 1.8% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1900, contains 9,025 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a two-family dwelling, detached garage and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1921. Exhs. 8 and 22.

2. The subject property is comprised of three zoning lots. Exhs. 2 and 4. The zoning lots making up the subject property have different lengths and the lengths of each are different from the lots which adjoin the subject property. Exhs. 4 and 21.

3. The property is irregular in shape with an angled rear property line that abuts an alley. Exhs. 2 and 4.

4. Petitioner would like to obtain a building permit for a new 6' x 24' two-level covered front porch, built to replace an old covered front porch, but variances are needed to obtain a building permit. Since the front porch is located only 3 feet from the front street line and the allowed amount of net lot coverage (30%) is exceeded by existing development on the property, variances of 22 feet front yard depth and 1.8% net lot coverage were requested. Exhs. 12 and 13.

5. Melvin Daniels, principal agent of Petitioner, testified that he purchased the property in 2005, at which time the original two-level porch existed (Exh. 5(A)), and that he recently replaced that porch with an

identical-sized two-level porch (Exhs. 5(B) and 23(H)). He stated that he needs to obtain a permit for the construction in order to get the porch inspected.

6. Mr. Daniels stated that the subject property is on the Prince George's County side of Eastern Avenue. To illustrate the character of the neighborhood and point out the number and types of front porches on structures in the immediate area, Petitioner submitted photographs of properties across the street on the District of Columbia side of Eastern Avenue (Exhs. 6, 23(A), (C) thru (E)), directly behind the subject property (Exh. 23(B)), down the street on the same side of Eastern Avenue (Exh. 23(F)), on the corner lot next door to the subject property (Exh. 23(G)(commercial property)) and next door on the other side of the subject property (Exh. 23(I)). Aerial photographs were also submitted to illustrate the proximity of other dwellings/porches in the immediate area to the street and that a number of structures extend up to or over the required building line. Exhs. 24(A) and (B).

7. He further explained that the dwelling existed as a two-family dwelling when he purchased the property and he obtained nonconforming use certification to continue using the dwelling as a two-family dwelling. Exh. 20. He stated that the porch has two levels because one family lives downstairs and another lives upstairs and both families are able to have a front porch.

8. The Town of Fairmount Heights posed no objection to the request. Exh. 25.

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 existing conditions on the property, the uniqueness of the size and shape of the property, the house being built in 1921, an existing two-level porch having been replaced with an identical-sized two-level porch, variances being needed to validate existing conditions before a permit may be obtained, nonconforming use certification having been obtained to continue using the dwelling as a two-family dwelling, a two-level deck providing a front porch for each family living in the dwelling, 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 22 feet front yard depth and 1.8% net lot coverage in order to validate existing conditions and obtain a building permit for a new (replacement) 6' x 24' two-level covered front porch on the property located at Lots 12, 13 & 14, Block O, Fairmount Heights Subdivision, being 509 Eastern Avenue, Capitol 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 plans, Exhibits 3(a) and (b).

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.