

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-59-16 Hary Barrera and Gaby Rivera

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: June 22, 2016.

CERTIFICATE OF SERVICE

This is to certify that on June 30, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division

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

Petitioners: Hary Barrera and Gaby Rivera

Appeal No.: V-59-16

Subject Property: Lots 39 & 40, Block O, Bradbury Heights Subdivision, being 4115 Torque Street,
Capitol Heights, Prince George's County, Maryland

Spanish Language Interpreter: Pedro Reynoso

Witness: Brent O'Connell, Property Standards Inspector, Department of Permits, Inspections
and Enforcement

Heard and Decided: June 22, 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 Zoning Ordinance Section 27-442(b)(Table I) of the Zoning Ordinance prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d)(Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 5 feet in width; 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. Petitioners propose to validate existing conditions and obtain a building permit for a one-story addition, with basement, and shed. Variances of 1,000 square feet net lot area, 10 feet front building line width, 12 feet front yard depth, 1 foot side yard width and 5.4% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1908, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1939. Exh. 8.
2. The property is a long and narrow lot, being 100 feet deep and only 40 feet wide. Exh. 2.
3. Petitioners were issued Building Violation Notice No. 47270-2015-0 ("Violation Notice"), dated August 28, 2015, by the Department of Permitting, Inspections and Enforcement, requiring that the required permit(s) be obtained for a fence, shed and rear addition or the structures be removed. Exh. 6.
4. Inspector Brent O'Connell testified that he was handling the Violation Notice at the hearing because the issuing inspector retired. He explained that the Violation Notice resulted after receipt of a complaint and involves construction without permits of the shed in the rear that is over 150 square feet in size and the rear addition to the house.

5. Petitioners would like to obtain a building permit for a 15.3' x 16' one-story addition, with basement, and 16.4' x 20' shed (Exh. 2), but variances are needed to obtain the permit. Since the addition is located 4 feet from the side lot line and construction of the addition and shed caused the allowed amount of net lot coverage (30%) to be exceeded, variances of 1 foot side yard width and 5.4% net lot coverage were requested. Exhs. 11 and 12.

6. Variances are also needed to validate certain existing conditions. Since the size and width of the lot at the front building line do not meet the current minimum requirements and the existing covered front porch is located 13 feet from the front street line, variances of 1,000 square feet net lot area, 10 feet front building line width and 12 feet front yard depth were also requested. Exh. 12.

7. Petitioner Hary Barrera testified that he has lived at the property for nearly 10 years, he built the shed in the rear yard 8 years ago and the addition on the back of the house about 1½ years ago. He explained that the exterior of the addition is finished, but the interior has not been completed. Exhs. 5(C) thru (H), (M) and (O).

8. He further testified that before the addition was built the house had only two bedrooms. He stated that more living space is needed for his wife and three children. He further stated that the shed is needed to store equipment.

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 narrowness of the property, the property being subdivided in 1908, the house being built in 1939, the property not meeting current lot size and lot width requirements, existing development on the property needing to be validated in order to obtain a building permit, the need for additional living space, 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 1,000 square feet net lot area, 10 feet front building line width, 12 feet front yard depth, 1 foot side yard width and 5.4% net lot coverage in order to validate existing conditions and obtain a building permit for a 15.3' x 16' one-story addition, with basement, and 16.4' x 20' shed on the property located at Lots 39 & 40, Block O, Bradbury Heights Subdivision, being 4115 Torque Street, 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) thru (e).

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.