

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-74-16 Martin Bolainez-Viera

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: September 7, 2016.

CERTIFICATE OF SERVICE

This is to certify that on September 28, 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

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

Petitioner: Martin Bolainez-Viera

Appeal No.: V-74-16

Subject Property: Lot 1, Block C, Buck Lodge Subdivision, being 9209 25th Place, Adelphi,
Prince George's County, Maryland

Spanish Language Interpreters: Mark Maier, Ernesto Luna

Witness: Harris Cordera, neighbor

Heard: July 27, 2016; September 7, 2016

Decided: September 7, 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 corner lot shall have a side yard along the side street at least 25 feet in depth; Section 27-442(e)(Table IV), which prescribes that each lot shall have a rear yard at least 20 feet in depth/width; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard; and Section 27-420(a), which prescribes that on a corner lot consisting of one (1) acre or less, fences in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions and construct a covered front porch. Variances of 3 feet side street yard depth and 6 feet rear yard depth/width for the dwelling, a variance of 39 feet front street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (Hughes Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1954, contains 6,664 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed with attached deck. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1956. Exh. 7.

2. The property is a corner lot with the dwelling facing the legal side street (25th Place). Exh. 2. Driveway access to the property is off of 25th Place. Exh. 2.

3. Petitioner would like to construct a 6'10" x 18'8" covered front porch on the house (Exh. 2), but variances are required to obtain a building permit. Since the porch would be located 22 feet from the side street line and the existing dwelling is located 14 feet from the rear lot line, variances of 3 feet side street yard depth and 6 feet rear yard depth/width were requested. Exh. 12.

4. Variances are also needed to validate existing conditions. Since an existing shed, with deck attached, is located 21 feet from the front street line and is in the front yard (Exh. 2), a variance of 39 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were also requested. Exh. 12.

5. A wooden privacy fence that is 5'9" in height also needs to be validated. Since the fence is over 4 feet in height and is located in the legal front yard of a corner lot, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (Hughes Road) were also requested. Exh. 12.

6. No site plan was attached to the copy of a 2013 permit for a 6-foot fence (37357-2013) submitted by Petitioner. Exh. 18.

7. Petitioner testified that in October 2013 he built the fence for the safety of his children and a shed for his tools. He testified that the fence does not obstruct the view for traffic on the street and a tree close to the corner was removed to improve visibility. He explained that since the ground was not level next to the shed, he added a deck that is about 12 inches above the ground. Exhs. 9(B) thru (H).

8. Petitioner explained that he is proposing to build a roof over his existing front porch. *See* Exhs. 3(a) and (b); 5(A) thru (D). He stated that a number of neighbors have covered front porches.

9. Harris Cordero, a neighbor (9207 25th Place), supported Petitioner's request. He stated that the intersection is a "T", with 25th Place ending, and there is no stop sign on Hughes Road.

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 property being a corner lot, the dwelling facing the legal side street, validation of existing conditions being necessary to obtain a building permit to construct a roof over the existing front porch, the 6-foot fence providing security and a safe area in the yard for children, 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 3 feet side street yard depth and 6 feet rear yard depth/width for the dwelling, a variance of 39 feet front street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (Hughes Road) in order to validate existing conditions and construct a covered front porch on the property located at Lot 1, Block C, Buck Lodge Subdivision, being 9209 25th Place, Adelphi, 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.