

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-6-16 Gloria Coello

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: October 26, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on November 17, 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
Municipality
Other Interested Parties

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

Petitioner: Gloria Coello

Appeal No.: V-6-16

Subject Property: Lot 7, Block C, Riggs Manor Subdivision, being 2312 Rittenhouse Street, Hyattsville,
Prince George's County, Maryland

Witness: Edgar Coello, Petitioner's brother

Heard: July 27, 2016; Decided: October 26, 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 a side yard at least 9 feet in width; 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 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line; and Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions, construct a covered front porch and obtain a building permit for a new covered side porch and 6-foot wooden privacy fence in the front yard (along East-West Highway). Variances of 2 feet front yard depth from Rittenhouse Street, 14.5 feet front yard depth from East-West Highway and 9 feet side yard width for the dwelling, 40.3% net lot coverage and 58.5 feet front street line setback from East-West Highway 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 are requested.

Evidence Presented

1. The property was subdivided in 1954, contains 3,800 square feet, is zoned R-35 (One-Family Semi-Detached Residential) and is improved with a semi-detached single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing semi-detached dwelling was built in 1957. Exh. 9.
2. The property is regular in its shape and size. Exh. 4. The property is a through lot with two legal front yards; the dwelling faces Rittenhouse Street and the property backs up to East-West Highway. Exh. 2.
3. Petitioner was cited with Building Violation Notice 30968-14-00, dated August 6, 2014, issued by the Department of Permitting, Inspections and Enforcement ("DPIE"), requiring that a building permit be obtained for a fence over 4 feet in height or the fence be removed. Exh. 7. A stop work order was issued by DPIE on October 6, 2015, requiring that all work being done without permits on the property be stopped. Exh. 8. Petitioner was also cited by DPIE with another Violation Notice, dated October 7, 2015, requiring that the required permit(s) be obtained for work done at the property, including a covered porch and fence over 4 feet. Exh. 24.

4. Petitioner would like to obtain a building permit for a new 14' x 58' covered side porch, an existing 6-foot wooden privacy fence and to construct of a 6' x 10' covered front porch (Exh. 2), but variances are required to obtain a building permit. Since the covered front porch would be located 23 feet from the street line of Rittenhouse Street and the covered side porch extends to the side lot line and is only 11 feet from the street line of East-West Highway), variances of 2 feet front yard depth (Rittenhouse Street), 14.5 feet front yard depth (East-West Highway) and 9 feet side yard width were requested. Exh. 13.

5. The maximum amount of net lot coverage allowed (30%) has already been exceeded by existing development on the property, and construction of the covered front porch would cause further overage. Exh. 12. A variance of 40.3% net lot coverage was requested to validate existing conditions and obtain a permit to build the front porch. Exhs. 12 and 13.

6. A variance is also required to validate the location of an existing shed located behind the dwelling. Since the shed is 1.5 feet from East-West Highway, a variance of 58.5 feet front street line setback for an accessory building was requested. Exh. 13.

7. In addition, since a 6-foot wooden privacy fence encloses the front yard abutting East-West Highway (Exh. 2), waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard were also requested to obtain a permit for the fence. Exh. 13.

8. Edgar Coello testified that his sister has owned the property since 2008 at which time the "vinyl addition" on the rear of the house already existed. See Exh. 28(B). He stated that after applying for a permit to build a 6-foot fence around her house (Exh. 27) she also built a "ceiling" over the patio on the side of the house by putting up a roof that extends out from the house and rests on top of the fence. Exhs. 5(A) thru (D).

9. Mr. Coello further testified that the roof was put over the porch to provide an area in which Petitioner's daughter could play and for protection from the rain. He explained that there are 6-foot fences on other properties in the neighborhood.

10. Sandra Allen, owner of the adjoining property (2314 Rittenhouse Street), opposed the structural additions except the cover over the front porch. Exh. 18.

11. Mary Rogers-Ealey, owner of property across the street at 2307 Rittenhouse Street, opposed or had concerns about Petitioners' request except as related to the covered front porch. Exh. 19.

12. In response to a request for technical assistance, DPIE stated that since the issuance of the violation notice in 2014, Petitioner has not followed through with the submission process at DPIE, did not follow through with the required permit for the fence that was constructed and had not applied for or called DPIE to discuss the concerns or lack of permits. DPIE stated that the work done, therefore, does not comply with County Code requirements and has never been reinspected or approved by DPIE. Exh. 30.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.
2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that variances of 2 feet front yard depth from Rittenhouse Street, 14.5 feet front yard depth from East-West Highway and 9 feet side yard width for the dwelling, 40.3% net lot coverage and 58.5 feet front street line setback from East-West Highway 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 in order to validate existing conditions, construct a 6' x 10' covered front porch and obtain a building permit for a new 14' x 58' covered side porch and 6-foot wooden privacy fence in the front yard (along East-West Highway) on the property located at Lot 7, Block C, Riggs Manor Subdivision, being 2312 Rittenhouse Street, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.