

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-108-16 Jose Torres and Luis Cerna

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 7, 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
Office of Law

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

Petitioners: Jose Torres and Luis Cerna

Appeal No.: V-108-16

Subject Property: Lot 10, Block 2, Addition to Kent Village Subdivision, being 2717 Hawthorne Terrace,
Hyattsville, Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard: October 5, 2016; Decided: October 26, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 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 2 feet from the rear lot line; Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioners propose to validate existing conditions, obtain a building permit for new driveway area and construct a driveway extension in the front yard. Variances of 13.8% net lot coverage¹, 1 foot rear lot line setback for an accessory building and a 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 1950, contains 8,082 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits ("Exhs.") 2, 3, 8 and 9. The existing dwelling was built in 1949. Exh. 8.
2. Building Violation Notice No. 55300-2015-0, dated July 16, 2015, was issued by the Department of Permitting, Inspections and Enforcement, requiring Petitioners to obtain the required permit(s) for work done, including but not limited to a new driveway, at the property and obtain all required inspection(s). Attachment to Exh. 6.
3. Petitioner would like to obtain a building permit for new driveway area (7.5' x 26'9" x 11') and also wants to construct a 3.5' x 26' driveway extension in front of the dwelling (Exh. 21), but variances are needed to obtain a building permit. Since the proposed driveway extension will be located in the area of the

¹ Petitioners submitted a revised the site plan (Exh. 21) which indicates less driveway area and a gate/barrier to prevent parking on the concrete to the rear. The revision lowered the lot coverage variance request to .1%. Exh. 22.

front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 14.

4. Since construction of the driveway extension will cause the allowed amount of net lot coverage (30%) to be exceeded, a variance of .1% net lot coverage was also requested. Exh. 22.

5. In addition, the location of an existing shed needs to be validated. Since the shed is located only 1 foot from the rear lot line, a variance of 1 foot rear lot line setback for an accessory building was also requested. Exh. 14.

6. Petitioner Luis Cerna explained that the covered patio was built at the rear to correct a problem with runoff water entering the house (*see* Exhs. 4(D) thru (F)) and he (Luis Cerna) poured the concrete on the left side of the house for the same reason. He explained that when he poured the concrete, he made the area wide enough for vehicle parking (Exhs. 4(A) thru (C)).

7. Mr. Cerna stated that he wanted to pour more concrete in the front yard next to existing concrete to create an additional parking space. He explained that his family has three vehicles and parking on the driveway area beside the house is made difficult by the location of an air conditioner compressor. Exh. 10(F).

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 existing conditions on the property, the location of air conditioning equipment making parking difficult next to the house, the need for additional parking area, 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, by majority vote, Vice Chairman Scott abstaining, that variances of .1% net lot coverage, 1 foot rear lot line setback for an accessory building and a waiver of the parking area location requirement in order to validate existing conditions, obtain a building permit for new driveway area (7.5' x 26/9' x 11') and construct a 3.5' x 26' driveway extension in the front yard on the property located at Lot 10, Block 2, Addition to Kent Village Subdivision, being 2717 Hawthorne Terrace, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 21.

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.