

*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-125-16 Jack and Kimberly Hay

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: November 9, 2016.

**CERTIFICATE OF SERVICE**

This is to certify that on November 18, 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  
Town of Morningside

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

Petitioners: Jack and Kimberly Hay

Appeal No.: V-125-16

Subject Property: Lot 42, Addition to Morningside Powers, Engle and Phelps Subdivision, being 4009  
Forest Grove Drive, Suitland, Prince George's County, Maryland

Municipality: Town of Morningside

Heard and Decided: November 9, 2016

Board Members Present and Voting: 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 Section 27-442(b)(Table I), which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(e)(Table IV), which prescribes that each lot shall have a side yard at least 7 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 construct a one-story addition. Variances of 225 square feet net lot area, 2 feet side yard width and 11.2% net lot coverage are requested.

**Evidence Presented**

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

1. The property was subdivided in 1938, contains 4,775 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1942. Exh. 7.

2. Petitioners would like to construct a 14' x 21' one-story addition on the rear of the dwelling, removing the 7' x 9.7' bump-out currently existing. Exh. 2. The addition would follow the current line of the side of the house, which is located 5 feet from the right side lot line, and construction of the addition would further increase lot coverage as the current development exceeds the amount of lot coverage allowed. Variances of 2 feet side yard width and 11.2% net lot coverage were requested. Exhs. 16 and 17.

3. As the lot size of the property does not meet the current minimum requirement for zoned R-80 lots, a variance of 225 square feet net lot area was requested to validate this existing condition. Exh. 17.

4. Petitioner Jack Hay testified they would like to construct an addition enlarging the rental dwelling, going from two bedrooms, one bath to four bedrooms and two baths to accommodate the tenants. Exhs. 3(a) and (b).

5. He explained the house has existed for 70 years and the 5-foot side yard setback has existed since the home was built. Several other older homes in the neighborhood also have similar 5-foot side yard setbacks. Exh. 7.

6. He also testified that the subject property was in foreclosure (Short Sale) when he purchased the property from the renters, who were allowed to continue residing on the property.

7. Petitioner testified that he has spoken with the Vice Mayor of the Town of Morningside who found no opposition to the proposed addition. Exh. 16.

8. The Town of Morningside submitted comments and has taken a "neutral stance", "neither in favor nor against this matter". Exh. 16.

9. Petitioner stated that the proposed addition will conform to the neighborhood. There are several homes that have constructed additions.

#### 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 house being built many years ago, the proposed addition following the existing line of the side of the house, the lot size not meeting current requirements and needing validation, 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, by majority vote, Ms. Mack absent, that variances of 225 square feet net lot area, 2 feet side yard width and 11.2% net lot coverage in order to validate existing conditions and construct a 14' x 21' one-story addition on the property located at Lot 42, Addition to Morningside Powers, Engle and Phelps Subdivision, being 4009 Forest Grove Drive, Suitland, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and elevation plans, Exhibits 3(a) and (b).

#### BOARD OF ZONING APPEALS

By: (Original Signed)  
Albert C. Scott, Vice Chairman

#### 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.