

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-157-16 Rodolfo Huacho and Any Hilario

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: February 8, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on February 16, 2017 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Barbara J. Stone
Acting Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Office of Law
Ernesto Luna, Spanish Language Interpreter
Other Interested Parties

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

Petitioners: Rodolfo Huacho and Any Hilario

Appeal No.: V-157-16

Subject Property: Lot 5, Block A, Kentland Subdivision, being 7009 East Forest Road, Landover,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Witness: Sherry James, Neighbor

Ceaser Umana, General Contractor

Heard: January 25, 2017; Decided: February 8, 2017

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 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; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line. Petitioners propose to validate existing conditions, obtain a building permit for a covered front porch and construct a two-story addition. Variances of 7.5 feet front yard depth, 9.4% net lot coverage and 2 feet side lot line setback for an accessory building are requested.

Evidence Presented

1. The property was subdivided in 1948, contains 5,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 5, 8, 9, 12 (A) thru (E).

2. Petitioners would like to construct a 16.5' x 24.7' two-story addition on the rear of the dwelling. As the existing development currently exceeds the amount of lot coverage allowed, construction of the addition would be further overage. A variance of 9.4% net lot coverage was requested. Exhs. 2, 3 (a) thru (c), 17.

3. The new covered front porch is located 17.5 feet from the front street line and an existing shed is located on the side lot line at the closest point. Variances of 7.5 feet front yard depth for the porch and 2 feet side lot line setback for an accessory building were requested. Exhs. 2, 3 (a) thru (c), 17.

4. On December 16, 2015, the Department of Permitting, Inspections and Enforcement, Inspections Division issued Building Violation Notice No. 4459-16-0 requiring Petitioners to obtain the required permit(s) for work done at the property or remove same. Exh. 7.

5. Mr. Huacho testified that the front porch was built without the proper permits. Exhs. 2, 3 (a) thru (c), 6 (A) thru (E).

6. He further testified and the purpose of the addition is to provide more living space for his growing family because the house is very small. Exhs. 2, 3 (a) thru (c).

7. Petitioner stated he purchased the home in 2014, but could not move in until 2015 due to a fire; in which the Fire Department had declared the house inhabitable until repairs were completed. Exh. 10.

8. Any Hilario explained the fire occurred where the two-story addition is proposed and where a one-story addition existed prior to the fire. Exhs. 6 (B) thru (E).

9. Mr. Huacho stated the covered front porch was built because of leakage causing water and snow to come into the house. He stated that adding the cover to the front porch remedied the leakage problem. Exh. 6 (E).

10. Ms. Sherry James testified that the Petitioners built the front porch, the concrete slab for the porch, the driveway and fencing. She stated that area is a Transforming Neighborhoods Initiative (TNI) community with an aggressive person assigned to code violations. She felt that the improvements made to the house are out of character of the neighborhood and opposed the two story addition to the rear of the house.

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 owners 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to fire damage at the rear of the house, 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 7.5 feet front yard depth, 9.4% net lot coverage and 2 feet side lot line setback for an accessory building in order to validate existing conditions, obtain a building permit for a 7.5' x 24.7' covered front porch and construct a 16.5' x 24.7' two-story addition on the property located at Lot 5, Block A, Kentland Subdivision, being 7009 East Forest Road, Landover, 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 approved elevation plans, Exhibits 3 (a)-(b) and 23.

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.