

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

RE: Case No. V-153-16 Marcos Benitez and Reyna Ortiz

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 22, 2017 .

**CERTIFICATE OF SERVICE**

This is to certify that on March 1, 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-NCPCC, Permit Review Section  
DPIE/Building Code Official, Permitting  
DPIE/Inspections Division  
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Marcos Benitez and Reyna Ortiz

Appeal No.: V-153-16

Subject Property: Lot 2, Block Q, Langley Park Subdivision, being 1802 Lebanon Street, Adelphi,  
Prince George's County, Maryland

Witnesses: Annette Hunn, Neighbor

Sonia Hernandez, Neighbor

Fidel Hernandez, Neighbor

Spanish Language Interpreter: Ernesto Luna

Heard: January 11, 2017, February 8, 2017; Decided: February 22, 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(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 any side or rear lot line; and 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 and obtain a building permit for a new carport. Variances of 13% net lot coverage, 2 feet side lot line setback and 1.5 feet 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 6,400 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, carport and shed. Exhibits (Exhs.) 2, 4, 5 (A) thru (B) and 9.
2. The subject property is trapezoid shaped with the rear property line being at an angle. Exh. 2.
3. Petitioners would like to obtain a building permit for a 9' x 31' carport, which has been constructed along the rear portion of the dwelling and is located along the side lot line and .5 foot from the rear lot line. Variances of 2 feet side lot line setback and 1.5 feet rear lot line for an accessory building were requested, respectively. In addition, the existing development on the property exceeded the amount of lot coverage allowed and construction of the carport adds further coverage. Therefore, a variance of 13% net lot coverage was also requested. Exh. 15.

4. A 9' x 28' driveway extension exists in front of the dwelling. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling, and since part of Petitioners' driveway is located in this area of the front yard, a waiver of the parking area location requirement was requested. Exh. 15.

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice 56949-16-0, dated September 15, 2016. The notice states that Petitioners are to obtain the required permit(s) for work done at the property or remove the same. Work includes but is not limited to the carport. Exh. 6.

6. Petitioner Marcos Benitez explained that the location of the carport provides protection for his vehicle.

7. Ms. Hunn testified that her property is the adjoining property next to the carport. She stated that she raised a concern with Mr. Benitz that the carport downspout was attached to her retaining wall. Exhs. 5 (A) thru (B) and 11 (A) thru (F). Ms. Hunn submitted a letter in support of the carport with the stipulation that the carport would not be attached to her property. Exh. 21.<sup>1</sup>

8. Mr. Fidel Hernandez advised that he resides on the property to the rear of the Petitioners and is concerned with the carport extending all the way to the rear property line. Exhs. 2, 3 (a) thru (d), 5 (A) thru (B) and 11 (A) thru (F).

9. Mrs. Sonia Hernandez stated she is in opposition to the carport. Exhs. 2 and 3 (a) thru (b).

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

Due to the odd shape of the rear of the property 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 opposing, that variances of 13% net lot coverage and 2 feet side lot line setback and 1.5 feet rear lot line setback for an accessory building, and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for a new carport on the property located at Lot 2, Block Q, Langley Park Subdivision, being 1802 Lebanon Street, Adelphi, Prince George's County, Maryland, be and are hereby APPROVED. Approval of

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<sup>1</sup> Mr. Benitez submitted a letter stating the carport is not attached to any wall that does not belong to him. Exh. 22.

the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (d).

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.