

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-4-17 Emigdio Inigo-Santiago and Casandra Cartegena

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: April 12, 2017.

CERTIFICATE OF SERVICE

This is to certify that on April 24, 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
Town of Cheverly

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

Petitioners: Emigdio Inigo-Santiago and Casandra Cartagena

Appeal No.: V-4-17

Subject Property: Lot 1, Block A, Cheverly Hills Subdivision, being 6327 Joslyn Place, Cheverly,
Prince George's County, Maryland

Municipality: Town of Cheverly

Witness: Alex Cipriano

Heard: March 8, 2017; Decided: April 12, 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 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 side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width. Petitioners propose to validate an existing condition and construct a deck with landing and steps. Variances of 2.6 feet side yard width and 19 feet rear yard depth/width are requested.

Evidence Presented

1. The property was subdivided in 1982, contains 5,912 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 4, 5 (A) thru (G), and 9.

2. Petitioners would like to construct a 16' x 23' deck with an 8' x 8' landing and steps. The deck would follow the lines of the dwelling, which is located 6.4 feet from the side lot line, and would be located 1 foot from the rear lot line. Variances of 2.6 feet side yard width and 19 feet rear yard depth/width were requested. Exhs. 2 and 3.

3. Petitioner Casandra Cartagena testified that the subject property was purchased in 2004. She explained that the previous owners poured a concrete porch or platform on the rear of the dwelling but did not slope the platform away from the house which now causes water to run toward the house. She also stated that the platform is 4 feet off the ground on one side and 2 ½ feet off the ground on the other side. She stated that there are no stairs or railing on the platform and it is very difficult to keep their children from falling off the platform. Exhs. 5 (A) thru (G) and 11 (A) thru (F).

4. Petitioner further testified that because the property is located at the bottom of two hills the property has standing water in the back yard which limits the use of the area. Petitioner also stated a County storm drain runs through the front yard which is why the house was set back on the property. Exhs. 2 and 7.

5. Ms. Cartagena noted that because water on the platform runs toward the house the original slider door frame was damaged and replaced with a regular door, which has already incurred water damage. Exhs. 5 (A) thru (G).

6. Petitioner Cartagena explained she would like to replace the existing concrete platform with two wood decks in order to utilize the rear yard. Exhs. 3 and 5 (A) thru (G).

7. Petitioner Cartagena further explained that structures in the front yard are prohibited by Cheverly's regulations. Exhs. 2, 5 (A) thru (G).

8. The Town of Cheverly supports Petitioners' variance request. Exh. 24

9. The Subdivision Section of M-NCPPC stated the property is known as Lot 1, Block A in the Cheverly Hills Subdivision recorded in Plat Book NLP 112 @ 53. There are no building restriction lines reflected on the plat and the site plan submitted in the referral package correctly reflects the bearings, distances and the lot size shown on the record plat. There are no other subdivision issues. Exh. 20.

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 the dwelling being located at the bottom of two hills, the dwelling being set back to the rear of the property because of the location of a storm drain in the front yard, significant water settling on the property, ongoing water damage being done to the house, imminent safety concerns of children on the existing unprotected concrete platform 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 2.6 feet side yard width and 19 feet rear yard depth/width in order to validate an existing condition and construct 16' x 23' deck with an 8' x 8' landing and steps on the property located at Lot 1, Block A, Cheverly Hills Subdivision, being 6327 Joslyn Place, Cheverly, 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 plan, Exhibit 3.

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.