

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-29-17 Francisco & Wendy Tolentino

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 26, 2017.

CERTIFICATE OF SERVICE

This is to certify that on May 18, 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

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

Petitioners: Francisco and Wendy Tolentino

Appeal No.: V-29-17

Subject Property: Lot 10, Block 10, Rogers Heights Subdivision, being 5316 Gallatin Street, Hyattsville,
Prince George's County, Maryland

Spanish Language Interpreter Services: Ernesto Luna

Heard and Decided: April 26, 2017

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 and a side yard at least 5 feet in width. Petitioners propose to validate existing conditions and obtain a building permit for a pre-existing one-story addition. Variances of 8 feet front yard depth and 2 feet side yard width are requested.

Evidence Presented

1. The property was subdivided in 1923, contains 7,280 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 3 (a) thru (d), 4 and 5 (A) thru (F).

2. Petitioners would like to obtain a building permit for an 8.6' x 24.5' one-story addition at the rear of the dwelling. The existing covered porch is located 17 feet from the front lot line and the dwelling is located 3 feet from the side lot line. The addition follows the lines of the dwelling, placing it 3 feet from the side lot line as well. Variances of 8 feet front yard depth and 2 feet side yard width were requested. Exhs. 2, 3 (a) thru (d), 4 and 5 (A) thru (F).

3. Petitioner Wendy Tolentino testified that the property was purchased in 2016 with the covered front porch and addition already existing. Mrs. Tolentino further testified that they are now validating and obtaining the required variances for both the porch and addition. Exhs. 2, 3 (a) thru (d), 4, 5 (A) thru (F) and 7.

4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 64111-16-0, dated December 10, 2016, requiring Petitioners to obtain the required permit(s) for work done or remove. Work includes but not limited to a rear addition and HVAC. Exh. 6.

6. The Subdivision Section of the Maryland National Capital Park & Planning Commission stated, "Exhibit 2 of the referral package demonstrates that the existing covered porch encroaches in to the 20-foot Building Restriction line (BRL). The proposed addition does not encroach on the BRL. Although the existing covered porch infringes on the recorded BRK, it is an existing condition and no plat to remove the BRL is required." Exh. 17.

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 purchasing the subject property with existing improvements done by previous owners without obtaining the required permits, the desire to continue to use the screen front porch and addition for family living 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. Johnson absent, that variances of 8 feet front yard depth and 2 feet side yard width in order to validate existing conditions and obtain a building permit for an 8.6' x 24.5' one-story addition on the property located at Lot 10, Block 10, Rogers Heights Subdivision, being 5316 Gallatin Street, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVAL. Approval of 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.