

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-37-17 Juan & Lucilla Hernandez

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: May 24, 2017.

CERTIFICATE OF SERVICE

This is to certify that on June 29, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Eastpines Citizens Association
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Juan and Lucila Hernandez

Appeal No.: V-37-17

Subject Property: Lot 15, Block B, Eastpines Subdivision, being 6002 Eastpine Drive, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter Services: Ernesto Luna

Heard and Decided: May 24, 2017

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(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 8 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, obtain a building permit for a covered patio, storage building covered entrance and addition to storage building and to construct a covered front porch. Variances of 4.5 feet front yard depth, 5.03 feet side yard width and 12.7% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1941, contains 5,606 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and storage building. Exhibits (Exhs) 2, 6, 7, 10 and 12 (A) thru (F).

2. The lot is irregular in shape, coming to a point at the rear of the property. Exhs. 2 and 6.

3. Petitioners would like to obtain a building permit for new 17' x 20' covered patio, 5.9' x 11.85', covered entrance to a storage building, 7' x 11.3' addition to a storage building and 4.55' x 29.2' covered front porch. The existing open porch is located 20.85 feet from the front street line and the existing dwelling is located 2.97 feet from the left side lot line. Variances of 4.5 feet front yard depth and 5.03 feet side yard width were requested, respectively. Exhs. 2, 3 (a) thru (c), 4 (a) thru (b), 5, 18.

4. Due to the existing development on the property exceeding the amount of lot coverage allowed, construction of the covered front porch would be further overage. A variance of 12.7% net lot coverage was also requested. Exhs. 2 and 16.

5. Petitioner Juan Hernandez testified that the deck, patio, and storage area were constructed without a permit. Exhs. 2, 3 (a) thru (c) and 4 (a) thru (b).

6. Mr. Hernandez further testified they would like to construct a covered front porch. He explained that a permit was received to pour the concrete for the front porch, but other permits have not been obtained. Exhs. 2 and 5.

7. Petitioner Lucila Hernandez testified that the open front porch becomes very hot and two doors have had to be replaced because of the heat and damaged from rain. Exhs. 2 and 5.

8. Mr. Hernandez explained that the storage shed is used to store tools. Exhs. 2 and 4 (a) thru (b).

9. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 3987-17-1, dated January 28, 2017, requiring Petitioners to obtain the required permit(s) for work done or remove the same. The work included but not limited to enlarging the accessory structure, adding an awning to the accessory structure and covering the patio. Exh. 8.

10. The Subdivision Section of the Maryland National Capital Park & Planning Commission reviewed the request for variances with the following comments: "Prior to the issuance of any building permit, a minor final plat must be prepared by an appropriate professional and submitted for approval to the Subdivision Section of the Maryland-National Capital Park and Planning Commission, in accordance with Section 24-108 of the Subdivision Regulations, to adjust and/or remove the building restriction line." Exh. 22.

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 lot being irregular in shape in the rear, continuing weather damage to the porch in the front 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. Bobbie Mack absent, that variances of 4.5 feet front yard depth, 5.03 feet side yard width and 12.7% net lot coverage in order to validate existing conditions, obtain a building permit for a 17' x 20' covered patio, a 5.9' x 11.85 covered entrance to a storage building, a 7' x 11.3' addition to a storage building and construct a 4.55' x 29.2' covered front porch on the property located at Lot 15, Block B, Eastpine Subdivision, being 6002 Eastpine Drive, Riverdale, 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, approved elevation plans, Exhibits 3 (a) thru (c), Exhibits 4 (a) thru (b) and 5. The Board notes that the Petitioner must obtain a minor final plat of subdivision (pursuant to Section 24-108 of the Subdivision Regulations) to have the existing BRL removed, prior to obtaining a building permit.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert 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.