

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-53-17 Juan D. Espana Garcia

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: July 12, 2017.

CERTIFICATE OF SERVICE

This is to certify that on August 15, 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: Petitioner
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

Petitioner: Juan D. Espana Garcia

Appeal No.: V-53-17

Subject Property: Lot 17, Block 3, Bellmead Subdivision, being 7402 Upshur Street, Hyattsville,
Prince George's County, Maryland

Witness: Ziyad Shalabi, Applied Civil Engineering

Heard: June 21, 2017; Decided: July 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, Petitioner 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 front yard at least 25 feet in depth and a side yard at least 8 feet in width. Petitioner proposes to obtain a building permit for a new covered front porch and validate an existing condition related to the existing location of the dwelling. Variances of 5 feet front yard depth and .5-foot side yard setback are requested.

Evidence Presented

1. The property was subdivided in 1946, contains 7,580 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, gravel area and shed. Exhibits (Exhs.) 2, 4, and 7.

2. The lot is irregular in shape, with the left rear lot line narrowing to a point. Exhs. 2, 4, 9 (A) thru (F) and 19.

3. Petitioners would like to validate and obtain a building permit for a new 6.5' x 11' covered front porch, which is located 20 feet from the front street line. A variance of 5 feet front yard depth was requested. Exhs. 2, 3 (a) thru (c) and 19.

4. The dwelling is located 7.5 feet from the left side lot line and a variance of .5-foot side yard depth was requested. Exhs. 2 and 19.

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 17453-17-0, dated March 9, 2017, requiring Petitioners to obtain the required permit(s) for work done or remove the same. The work included the covered front porch. Petitioners were also instructed to obtain all required inspections(s) for work performed once the permit(s) has/have been issued. Exh. 21.

6. Petitioner Juan Garcia testified he wished to enlarged the existing porch. Exh. 2

7. Engineer Ziad Shalabi testified that Mr. Garcia, a roofing contractor, will be replacing the old shingles on the porch with new shingles and gutters. Exhs. 2 and 3 (a) thru (c). He also stated that the porch posts will be wrapped in white PVC board. Exh. 19

8. Letters of support from neighbors (7406, 7409, 7404, 7405 and 7401 Upshur Street) for the project were submitted. Exh. 16.

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 owner 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 to the far-left side of the lot, enlarging the front porch for family enjoyment 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Mr. Al Scott abstaining, that variances of 5 feet front yard depth and .5-foot side yard setback in order to validate existing conditions and obtain a building permit for a new covered front porch on the property located at Lot 17, Block 3, Bellmead Subdivision, being 7402 Upshur Street, Hyattsville, 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 revised elevation plans, Exhibits. 19 (a) thru (c).

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.