

NOTICE OF FINAL DECISION

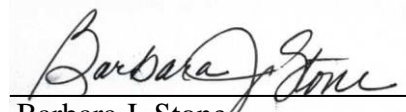
OF BOARD OF APPEALS

RE: Case No. V-63-17 Elmer and Mercy Rodriguez

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: August 23, 2017.

CERTIFICATE OF SERVICE

This is to certify that on August 31, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, 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: Elmer and Mercy Rodriguez

Appeal No.: V-63-17

Subject Property: Lot 3, Block A, Haywood's Addition to West Lanham Subdivision, being 5300 76th Avenue, Lanham, Prince George's County, Maryland

Heard and Decided: August 23, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width; 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 60 feet from the front street line, 30 feet from the side street line and generally be located only in the rear yard, or in the yard opposite the designated front of the main building on corner lots where the designated front of the main building faces the side street; 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; and Section 27-420(a), which prescribes that on a corner lot consisting of one (1) acre or less, fences and walls in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate existing conditions and obtain a building permit for a deck, driveway extensions, shed and 6-foot metal fence. Variances of 5 feet side yard width for the deck, 3.4% net lot coverage, variances of 57 feet front street line setback and 24.5 feet side street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the parking area location requirement and fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Annapolis Road) and side yard (abutting 76th Avenue) are requested.

Evidence Presented

1. The property was subdivided in 1998, contains 6,864 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. The property is an extremely odd-shaped corner lot, with the dwelling facing 76th Avenue. Exhibits (Exhs.) 2, 4, 8, 10 (A) thru (F) and 21.

2. The dwelling was built in 1999, with the structure being located 25 feet from the street at the closest point, 9 feet from the side lot line and 20 feet from the rear lot line, which is adjacent to 76th Avenue. Exhs. 2, 10, (A) thru (F) and 21.

3. Petitioners would like to obtain a permit for a 12' x 22¹/₄' x 10' deck, 9' x 18', 8' x 20', 9' x 46' driveway extensions and 8.3' x 12.1' shed. As the total development on the property exceeds the amount of lot coverage allowed, a variance of 3.4% net lot coverage was requested. Exhs. 2, 3 (a) thru (c), 5 (A) thru (G) and 21.

4. An existing shed is in the (legal) front yard, 3 feet from the property line abutting Annapolis Road and 5.5 feet from the property line abutting 76th Avenue. Variances of 57 feet front street line setback and 24.5 feet side street line setback and a waiver of the rear yard location requirement for this accessory building were requested. Exhs. 2, 5 (A) thru (G), 10 (A) thru (F) and 21.

5. Because two of the driveway extensions expand into the front the dwelling, a waiver of the parking area location requirement was requested. Section 27-120.01(c) prescribes that construction of driveways not leading to a carport or garage is not permitted in the front yard between the street line and the sides of the dwelling. Exhs. 2, 13 and 21.

6. Waivers of the existing fence height and location requirements were requested to validate a 6-foot metal fence which runs along the legal front, side and rear lot lines and ends at the right side of the dwelling, but is not in the actual front of the dwelling. Exhs. 2, 13 and 21.

7. The proposed deck, which is located on the rear of the dwelling and replaces the previous deck, will be located 3 feet from the side lot line. A variance of 3 feet side yard width was, therefore, requested. Exhs. 2, 3 (a) thru (c), 5 (A) thru (G), 10 (A) thru (F) and 21.

8. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 57691-15-0, dated October 28, 2015, requiring Petitioners to obtain the required permit(s) for work done or remove the same. The work encompassed the proposed deck, extended driveway, an accessory structure (Shed) over 150 square feet and a carport. Exh. 6.

9. Petitioner Mercy Rodriguez testified that all the development existed on the property when the subject property was purchased in 2010, including the deck which was in major disrepair. She further testified that the deck was rebuilt (but without a permit). She added that the carport has been removed and that the portion of the driveway going toward the rear of the house will also be removed. Exhs. 2, 3(a) thru (c), 5 (A) thru (G) and 21.

10. Ms. Rodriguez further explained that vehicular parking is prohibited on 76th Avenue. She stated that three different signs posted either as "No Parking", "No Stopping or Standing" and "No Street Parking Available" exist on 76th Avenue. Exhs. 19 and 20.

12. Revised site plan was submitted to demonstrate the driveway area to be removed (8' x 60') and those areas which are to remain. 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 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 lot being an odd shaped corner lot, the front of the dwelling facing 76th Avenue (which is the legal side yard), restriction of no on-street parking on 76th Avenue, the need to validate pre-existing conditions on the subject 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, unanimously, that variances of 5 feet side yard width, 6.8% net lot coverage, variances of 57 feet front street line setback and 24.5 feet side street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the parking area location requirement and fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Annapolis Road) and side yard (abutting 76th Avenue) in order to validate existing conditions and obtain a building permit for a 12' x 22¹/₄' x 10' deck, 9' x 18', 8' x 20', 9' x 46' and 15' x 31' driveway extensions and 8.3' x 12.1' shed on the property located at Lot 3, Block A, Haywood's Addition to West Lanham Subdivision, being 5300 76th Avenue, Lanham, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 21 and approved elevation plans, Exhibits 3 (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.