

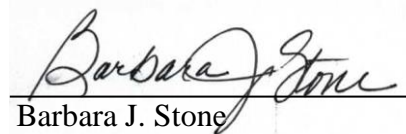
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-108-17 Denny Hernandez and Esmeralda 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: October 11, 2017.

CERTIFICATE OF SERVICE

This is to certify that on October 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
Office of Law

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

Petitioners: Denny Hernandez and Esmeralda Garcia

Appeal No.: V-108-17

Subject Property: Lot 17 and Part of Lot 16, Sherwood Subdivision and Part of Lots 237 & 238, Ole Longfield Subdivision, being 7402 Leona Street, District Heights, Prince George's County, Maryland

Heard: September 27, 2017; Decided: October 11, 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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking and Section 27-442(i)(Table VIII), which prescribes that dog pens shall be located 25 feet from any side or rear lot line and 50 feet from any dwelling on an adjoining lot. Petitioners propose to validate existing conditions and obtain a building permit for a new tool shed, new gravel driveway area and a new 6-foot wooden fence. A variance of 29.8% net lot coverage and a waiver of the dog pen location requirements are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property contains 10, 623 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, detached garage and tool shed. Exhibits (Exhs.) 2, 4, 11, 13 (A) thru (F) and 29.
2. The property was subdivided in 1937. Exh. 4
3. Petitioners would like to obtain a building permit for a new 13'6" x 29'6" tool shed, new gravel driveway area in the rear yard and a 6-foot wooden fence around the rear yard. Construction of the shed and driveway area exceeded the amount of lot coverage allowed. A variance of 29.8% net lot coverage was requested. Exhs. 2, 3, 5 (A) thru (E), 14 and 29.
4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 21009-16-01, dated April 29, 2016, requiring Petitioners to obtain the required permit(s) for work done or remove the same. Work included but not limited to a fence over 4 feet in height, placement of gravel to expand driveway, and 2nd accessory structure (shed). Exhs. 8 and 9.
5. Petitioner Denny Hernandez testified that the work already completed includes a 6-foot fence, an extended driveway and a tool shed.
6. Although the original site plan demonstrated a 10' x 10' dog pen which was located 8 feet from the rear lot line and approximately 22 feet from the adjoining property owner to the rear, a waiver of the dog pen location requirement was requested. It has since been determined that the dog pen pre-existed prior to the purchase of the property, but has now been removed with only the concrete pad remaining. Exhs. 2, 10 (A) thru (F) and 29.

7. He further testified that the 6-foot fence extends around the sides and rear of the property and has a double gate that is 7-feet tall.

8. He stated that the 6-foot fence was sought for the safety of his 5 children and testified that the speed of the cars traveling on Leona Street is 40-50 miles per hour, but the speed limit is only 25 miles per hour. Exhs. 2, 10 (A) thru (F) and 29.

9. Petitioner provided several photographs showing other properties in the immediate area with 6-foot fences. Exhs. 23 thru 28.

10. Petitioner provided a revised plan reducing the 7-foot gate to 6-feet. Exhs. 29.

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 variances complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the need to provide a safe play area for 5 children 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. Anastasia Johnson absent, that a variance of 29.8% net lot coverage in order to validate existing conditions and obtain a building permit for a new tool shed, new gravel driveway area and a new 6-foot wooden fence on the property located at Lot 17 and Part of Lot 16, Sherwood Subdivision and Part of Lots 237 & 238, Ole Longfield Subdivision, being 7402 Leona Street, District Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 29, and approved elevation plan, Exhibits 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.