

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-154-07 Reyna Alvarenga

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: January 16, 2008.

**CERTIFICATE OF SERVICE**

This is to certify that on February 8, 2008, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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Anne F. Carter  
Administrator

cc: Petitioner  
Adjoining Property Owners  
DER, Building Code Official, Permit & Review Div.  
M-NCPPC, Permit Review Section

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

Petitioner: Reyna Alvarenga

Appeal No.: V-154-07

Subject Property: Lots 22 & 23, Block 5, Rogers Heights Subdivision, being 5407 Gallatin Street,  
Hyattsville, Prince George's County, Maryland

Witnesses: Nola Phillips, adjoining property owner

Anna Flores, Petitioner's daughter (acted as interpreter at 10/17/07 hearing)

Santos Benitez, adjoining property owner (acted as interpreter at 10/17/07 hearing)

Juan Valladares, resident of subject property

Marlene Paucar (acted as interpreter at 1/16/08 hearing)

Francisco Valladares, resident of subject property

Heard: October 17, 2007; January 16, 2008

Decided: January 16, 2008

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, and Section 27-442(c)(Table II) of the Zoning Ordinance, which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes to validate existing conditions and construct a two-story addition, covered front porch and second-story side deck with stairs. Variances of 14 feet front yard depth, 3 feet side yard width and 6.5% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1923, contains 9,714 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, two driveways and a shed. The existing house was built in 1932 (Exhibit 5).

2. The property is an odd-shaped corner lot, with the angle of the side street line causing the property to narrow from front to rear (Exhibits 2 & 3). The existing house faces the legal front street and is located in the northwestern corner of the property (Exhibit 2). The property slopes downward from the front street, Gallatin Street, to the legal rear of the lot behind the house. See Exhibit 4 (Photos C-E).

3. Petitioner would like to construct a 28.7' x 31.6' two-story addition on the rear of the existing two-story dwelling, a 28.7' x 6' covered front porch on the front of the existing dwelling and a 10' x 15.7' second-story deck on the side of the existing dwelling facing the legal side street. The existing house is located 5 feet from the right side lot line and 17 feet from the front street line. Since the rear addition would extend the existing lines of the house and the front porch would be located 11 feet from the front street line, variances of 14 feet front yard depth and 3 feet side yard width were requested. In addition, construction of the addition, porch and deck would cause the allowed amount of lot coverage to be exceeded. Therefore, a variance of 6.5% net lot coverage was also requested.

4. Petitioner Reyna Alvarenga testified that she has owned the property for 7 years. She explained that she needs the additional living space because her children need their own bedrooms as they are getting older, and needs the covered front porch because rain hits the front door. She stated that siding has been removed from the existing house in anticipation of having replacement siding match the siding on the proposed addition.

5. Ms. Santos Benitez, owner of adjoining property next door to the subject property (5405 Gallatin Street), testified that her house is two stories, most of the other homes in the neighborhood are also two stories, and there is at least one other property where a front porch is half-covered.

6. Ms. Nola Phillips, owner of adjoining property across the street from the subject property (5033 54<sup>th</sup> Place), testified that she has no objection to the request.

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request with regard to the description of the property contained on the record plat of subdivision for Rodgers Heights (RNR 2 @ 65 – Lots 22 and 23, Block 5). The Subdivision Section stated that the requested variance is in conflict with the subject record plat, which shows a 20-foot building restriction line (BRL) on the plat along Gallatin Street (aka Franklin Street on the record plat), and if the Board of Zoning Appeals grants the requested variance, Petitioner should be required to submit a minor final plat (pursuant to Section 24-108 of the Subdivision Regulations) to have the existing BRL removed. 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.

#### 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 comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the property being a corner lot, the property being subdivided in 1923, the original house being built in 1932, the location of the existing house on the lot, the sloping topography of the property, the existing conditions on the property, the need for additional living space, 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, Ms. Mack in the minority, that variances of 14 feet front yard depth, 3 feet side yard width and 6.5% net lot coverage in order to validate existing conditions and construct a two-story addition, covered front porch and second-story side deck with stairs on the property located at Lots 22 & 23, Block 5, Rogers Heights Subdivision, being 5407 Gallatin 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 revised (#2) site plan, Exhibit 19, and the approved elevation plans, Exhibits 12 & 14. Prior to the issuance of any building permit, Petitioner shall be required to submit a minor final plat (pursuant to Section 24-108 of the Subdivision Regulations) to have the existing building restriction line removed. 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.

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.