

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-1-11 Francisco & Hermelinda 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: March 23, 2011 .

CERTIFICATE OF SERVICE

This is to certify that on April 14, 2011 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER/Building Code Official, Permits & Review Group
DER/Licenses & Inspections Group
Office of Law
Ernesto Luna

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

Petitioners: Francisco & Hermelinda Hernandez

Appeal No.: V-1-11

Subject Property: Lots 185 & 186, Block 13, Sherman Park Subdivision, being 9708 Beachwood Avenue,
Lanham, Prince George's County, Maryland

Interpreter: Ernesto Luna

Heard: February 2, 2011; Decided: March 23, 2011

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(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 27-120.01(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. Petitioners propose to validate existing conditions and obtain a building permit for a 6-foot fence and new driveway area. Variances of 26.3% net lot coverage and a waiver of the parking area requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1895 and recorded in 1930. See Exhibit ("Exh.") 3. The property contains 5,500 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. See Exhs. 2-3, 11-12, 13(D)-(F). The property was improved with a single-family dwelling in 1969. See Exh. 11.

2. On July 1, 2010, Petitioners were issued Violation Notice BVN-18319-10-01 by the Department of Environmental Resources, requiring that a building permit be obtained for a driveway extension in the front and rear yards and a 6-foot fence or remove the structures. See Exh. 7.

3. Since construction of the driveway extensions have caused the allowed amount of net lot coverage to be exceeded, a variance of 26.3% net lot coverage was requested. See Exhs. 16-17. In addition, since the front driveway extension is located in the area of the front yard prohibited by Section 27-120.01(C), a waiver of the parking area requirement was requested. See Exh. 17.

4. Petitioners purchased the property in 2002. See Exh. 11.

5. Petitioner Francisco Hernandez testified that there used to be a deck on the rear of the house. See Exh. 21. He explained that because the deck had been built with holes where there were poles, and water was getting into the basement, he decided to remove the deck and concrete was put in that area. See Exh.

6(A). He testified that because it was muddy all along the side of the house and there was a hole up next to the porch, he also put concrete in the front and side yards. See Exhs. 6(B)-(D), (F). He stated that initially there was only a concrete area in the front yard to park one car and a sidewalk leading to the front of the house. See Exh. 21.

6. Petitioner Hermelinda Hernandez testified that the concrete was put in because of the mud and to protect the house.

7. Mr. Hernandez testified that parking is permitted on the street.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented. See Exhs. 2-3, 13(A)-(G).

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 26.3% net lot coverage and a waiver of the parking area requirement in order to validate existing conditions and obtain a building permit for a 6-foot fence and driveway extensions in the front, side and rear yards (total driveway area of approximately 1940 sq. ft.) on the property located at Lots 185 & 186, Block 13, Sherman Park Subdivision, being 9708 Beachwood Avenue, Lanham, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.