

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-12-11 Rudolph Dixon

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: April 6, 2011.

CERTIFICATE OF SERVICE

This is to certify that on April 25, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER/Building Code Official, Permits & Review Group
Other Interested Parties

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

Petitioner: Rudolph Dixon¹

Appeal No.: V-12-11

Subject Property: Lot 2, Block E, Fifth Addition to Chris-Mar Manor Subdivision, being 5705 San Juan Drive, Clinton, Prince George's County, Maryland

Witness: Carol Butcher

Mervin Bertrand, Home Contractors Plus

Heard and Decided: April 6, 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 a variance 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 a variance 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. Petitioners propose to enclose an existing attached carport into a garage. A variance of 3 feet side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1960, contains 16,704 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, attached carport, driveway and shed. See Exhibits ("Exhs.") 2, 4, 9-10. The property was improved with a single-family dwelling in 1961. See Exh. 10.

2. In 1973, the Board approved a side yard setback variance (Appeal No. 3530) for construction of the attached carport. See Exh. 7.

3. Petitioner would like to enclose the existing 12' x 26.6' attached carport into a garage, but a variance is needed to obtain a building permit. See Exhs. 1, 21. Since the carport is located only 5 feet from the side lot line, a variance of 3 feet side yard width was requested. See Exhs. 2, 13.

4. Mervin Bertrand, Petitioner's contractor, testified that some of the homes in the area were built with carports, some of which have been enclosed. He explained that Petitioner's carport has existed for many years, but is closer to the property line than carports on other properties.

¹ Property records indicate both Rudolph Dixon and Kathy Dixon as owners of the subject property. See Exhs. 5, 9-10. On his variance application, Mr. Dixon indicated that Kathy Dixon is now deceased. See Exh. 1.

5. Petitioner stated that the garage, like the carport, will accommodate one vehicle and will have a rear door so that he can continue to back his trailer through to the pavement behind the house. See Exh. 3(b). He further stated that there is no water runoff problem; he uses gutter extensions to direct water toward the rear. He testified that the garage will have brick to match the existing house and it will not be out of character for the neighborhood.

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 location of an existing carport for which a previous variance was approved, the carport being built after construction of the house, many carports in the neighborhood having been enclosed, 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, unanimously, that a variance of 3 feet side yard width in order to enclose an existing attached carport into a 12' x 26.6' attached garage on the property located at Lot 2, Block E, Fifth Addition to Chris-Mar Manor Subdivision, being 5705 San Juan Drive, Clinton, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) & (b).

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.