

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-2-09 Frankie & Betty Kelly

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: February 4, 2009 .

CERTIFICATE OF SERVICE

This is to certify that on February 25, 2009 , 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, Permit & Review Div.
DER, Licenses & Inspections Div.
Other Interested Parties

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

Petitioners: Frankie & Betty Kelly

Appeal No.: V-2-09

Subject Property: Lot 22, Block B, Maplewood Subdivision, being 3760 Stonesboro Road, Fort Washington, Prince George's County, Maryland

Witness: Wayne Matthews, Contractor

Heard and Decided: February 4, 2009

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(c)(Table II) of the Zoning Ordinance, which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate and obtain a building permit to complete construction of a second-floor addition and two two-story additions. A variance of 1.3% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1967, contains 10,000 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached garage, driveway and shed. The property was developed in 1974. See Exhibits ("Exhs.") 2, 4 & 6.
2. Petitioners began construction of a second-floor addition over the existing 43' x 24' dwelling and 12.1' x 21.4' attached garage, a 43' x 10' two-story addition on the rear of the existing dwelling and a 12.1' x 19' two-story addition on the rear of the existing garage. Construction of the two-story additions has caused the allowed amount of net lot coverage to be exceeded. Therefore, a variance of 1.3% net lot coverage was requested to validate existing conditions and obtain a building permit to complete the construction.
3. Petitioner Frankie Kelly testified that the County wanted to condemn the house.
4. Wayne Matthews, Petitioners' current contractor, testified that the only portion of the construction for which a permit has not been approved, because of exceeding the lot coverage allowed, is a 9' x 12' area behind the garage that will be a sunroom.
5. Mr. Kelly testified that that he would not need a variance if he removes the existing shed in the rear yard, but he needs to retain the shed for storage.

6. Mr. Kelly further testified that the neighbors on both sides of his property have added a second level to their houses and that his roofline is the same as theirs.

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 existing conditions on the property (including the possibility of condemnation), the need for additional living space, the small area of overage requested, the need to retain a storage shed in the rear yard, 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 a variance of 1.3% net lot coverage in order to validate and obtain a building permit to complete construction of a second-floor addition and two two-story additions on the property located at Lot 22, Block B, Maplewood Subdivision, being 3760 Stonesboro Road, Fort Washington, 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 plan, Exhibit 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.