


NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-214-07 Thomas & Norma Norris

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 5, 2008.

CERTIFICATE OF SERVICE

This is to certify that on March 19, 2008, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Anne F. Carter
Administrator

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

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

Petitioners: Thomas and Norma Norris
Appeal No.: V-214-07
Subject Property: Lot 7, Block F, Seabrook Subdivision, being 9425 Franklin Avenue, Lanham,
Prince George's County, Maryland
Counsel for Petitioners: Michael E. Lyons, Esq., Law Offices of Ralph W. Powers, Jr., P.C.
Heard: February 27, 2008; Decided: March 5, 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 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 requests 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 rear yard at least 20 feet in depth/width. Petitioners propose to validate conditions and obtain a building permit to complete construction of new one-story living space and garage additions. A variance of 6 feet rear yard depth is requested.

Evidence Presented

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

1. The property was recorded in 1930, contains 18,000 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling with garage addition and a driveway. The rear of the property is sloped.
2. The original one-story house was built in 1957 (Exhibit 9).
3. Petitioners would like to complete construction of a 40' x 50' one-story garage addition and 40' x 20' one-story living space addition on the rear of the existing house. Since the rear-most addition will be located 14 feet from the rear lot line, a variance of 6 feet rear yard depth/width was requested.
4. Petitioners received Violation Notice No. BVN 5653-2007 (Exhibit 7), issued by the Licenses and Inspections Division of the Department of Environmental Resources, requiring Petitioners to revise their site plan to conform with the scope of the construction and to complete the construction prior to final inspection.
5. Counsel for Petitioners explained that after obtaining a building permit to begin the proposed construction, it was subsequently discovered that the approved site plan for the permit failed to include a 16-foot-deep section of the existing dwelling, which placed the proposed additions closer to the rear lot line than originally thought.

6. Counsel stated that Petitioners had no intention to build beyond what was permitted and moved forward with construction because they believed that the additions would not infringe into any setback. He explained that a County inspector even approved the pouring of footings and the slab and it was not until the framing was inspected that Petitioners were instructed to stop work. See Exhibits 2 and 17. Counsel further stated that the finished structure would be used as one single-family dwelling, that the three side entrances to the structure enter into the garage space, the existing house and a family room behind the main house, and that the garage appears taller than it actually is due to the upward slope in the rear yard.

7. Petitioner Thomas Norris testified that the proposed enlarged house will not be out of character with the neighborhood as additions have recently been built onto two houses, one to the right and one across the street from his property, and there exists a garage on almost every property in the neighborhood. He stated that his property is located on a dead-end street. Petitioner further testified that two accessory structures on neighboring properties extend further back than Petitioners' addition. See also Exhibit 8 w/photos A, B & F.

8. Counsel offered that the subject property is located in a neighborhood that is next to an Amtrak station, which in turn adjoins industrial property, and the area contains structures without any one style.

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 dimensions of the property, the existing conditions on the property, the upward slope of the rear yard, a building permit having been initially obtained with an approved site plan that did not show a 16-foot-deep section of the existing structure, revision of the plan revealing the need for a rear setback variance, construction having progressed under County approvals but suspended until the framing was inspected, and the character of the entire 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 6 feet rear yard depth/width in order to validate and obtain a building permit to complete construction of new one-story living space and garage additions on the property located at Lot 7, Block F, Seabrook Subdivision, being 9425 Franklin Avenue, Lanham, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the

variance is contingent upon development in compliance with the approved revised site plan, Exhibit 13, and the approved elevation plans, Exhibit 4(a)-(c).

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.