


*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-215-07 Jose Pacheco

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 27, 2008.

**CERTIFICATE OF SERVICE**

This is to certify that on March 13, 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  
Other Interested Parties

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

Petitioner: Jose Pacheco

Appeal No.: V-215-07

Subject Property: Lot 43, & Part of Out Lot, Block D, Eastpines Subdivision, being 5708 64th Avenue, Riverdale, Prince George's County, Maryland

State-Certified Interpreter: Ernesto Luna

Heard and Decided: February 27, 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. Petitioner proposes to validate existing conditions and obtain a building permit for a new covered front porch. Variances of 7 feet front yard depth and 3.5 feet side yard width are requested.

Evidence Presented

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

1. The property contains 8,566 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, shed and driveway. The existing house was built in 1942.
2. The property is a long and narrow lot and has an irregular shape (Exhibit 2).
3. The front portion of the property is a lot recorded in 1942. A 1953 deed describes the property in its current configuration, with the addition of part of an Out Lot. See Exhibits 2, 3 & 5.
4. Petitioner constructed an 8' x 36' covered front porch, replacing the existing 7' x 10' porch, without first obtaining a building permit. Petitioner was cited with Violation Notice No. BVN 38452-07-01 by the Department of Environmental Resources, Licenses and Inspections Division, requiring that Petitioner obtain a building permit for the porch or restore the structure to its original condition (Exhibit 6).
5. In order to obtain a building permit, variances are needed to validate existing conditions. Since the porch is located 18 feet from the front street line and the existing dwelling is located 4.5 feet from the side lot line, at the closest point, variances of 7 feet front yard depth and 2 feet side yard width were requested.

6. Petitioner testified that as a first-time homeowner he did not realize a permit was required to construct a larger porch when a smaller one already existed in that location. He stated that the original porch did not have a roof, but he built a larger porch with a roof to provide more space and to make it more attractive. He further stated that he has no intention of enclosing the porch.

7. Petitioner further testified that he believes there are at least two other houses with covered front porches on his street, one being 2-3 houses to the left and the other approximately 4 houses to the right of his house.

8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request. The Subdivision Section stated that the requested variance is in conflict with the record plat of subdivision (BB 9 @ 40 – Lot 43, Block D) for the subject property, which shows a 25-foot building restriction line ("BRL") on the plat along 64th Avenue. If Petitioner chooses not to adjust the location of the existing building development to a location not in conflict with the existing 25-foot BRL line and the variances are granted, 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 complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the lot, the narrowness of the lot, the existing conditions on the property, the need for a larger porch, 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 variances of 7 feet front yard depth and 3.5 feet side yard width in order to validate existing conditions and obtain a building permit for a new covered front porch on the property located at Lot 43 & Part of Out Lot, Block D, Eastpines Subdivision, being 5708 64th Avenue, Riverdale, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2. 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.