

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-4-10 Phong & Hong Nguyen

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 10, 2010.

CERTIFICATE OF SERVICE

This is to certify that on March 29, 2010, 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
Park and Planning Commission
DER, Licenses & Inspections Div.

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

Petitioners: Phong & Hong Nguyen

Appeal No.: V-4-10

Subject Property: Lot 2, Block 2, White Oak Manor Subdivision, being 2603 Lackawanna Street,
Hyattsville, Prince George's County, Maryland

Heard: February 24, 2010; Decided: March 10, 2010

Board Members Present and Voting: 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(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; Section 27-442(c)(Table II), which prescribes that not more than 25% 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 covered front porch and attached carport. Variances of 5 feet front yard depth, 2 feet side yard width, 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 1955, contains 10,611 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached carport and driveway. The property was developed with a single-family dwelling in 1954. See Exhibits ("Exhs.") 2-3, 8.
2. In May 2009, the Licenses and Inspections Division of the Department of Environmental Resources issued Violation Notice BVN 15208-2009, requiring Petitioners to either obtain a building permit for the carport and front porch or remove them. See Exhs. 6-7.
3. To obtain a building permit, variances are necessary to validate the following conditions: a) a portion of Petitioners' driveway is located in the area of the front yard prohibited by Zoning Ordinance Section 27-120.01(c), b) the front porch is located only 20 feet from the front street line, and c) the carport is located only 6 feet from the side lot line. A waiver of the parking area requirement and variances of 5 feet front yard depth and 2 feet side yard width are requested to validate the three prohibited existing

conditions. In addition, because the allowable amount of net lot coverage is exceeded by existing development on the property, a variance of 3% net lot area is also requested.

4. Petitioner Phong Nguyen testified that the three prohibited conditions predated his ownership of the property and it would be a hardship if he was required to tear down the structures in violation.

5. The Board approved a front yard setback variance in 2005 (Appeal No. V-24-05) when a previous owner proposed to build a covered front porch the size of the existing porch.

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 comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property having been developed in 1954, the preexisting conditions on the property, the Board having previously approved a variance to construct a covered front 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 owners of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Mack absent, that variances of 5 feet front yard depth, 2 feet side yard width, 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 covered front porch and attached carport on the property located at Lot 2, Block 2, White Oak Manor Subdivision, being 2603 Lackawanna Street, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 20.

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.