

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-4-11 Oscar & Norma Benitez

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 16, 2011 .

CERTIFICATE OF SERVICE

This is to certify that on March 15, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER/ Building Code Official, Permits & Review Group
DER/ Licenses & Inspection Group
Ernesto Luna

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

Petitioners: Oscar & Norma Benitez

Appeal No.: V-4-11

Subject Property: Lot 11, Block P, Park lawn Subdivision, being 7003 17th Avenue, Hyattsville,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard and Decided: February 16, 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 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. Petitioners propose to validate existing conditions and construct a driveway. Variances of 3.5 feet front yard depth and 4.5 feet side yard width are requested.

Evidence Presented

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

1. The property was subdivided in 1950, contains 6,380 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. See Exhibits ("Exhs.") 2-3, 6-7. The property was improved with a single-family dwelling in 1952. See Exh. 6.
2. A permit history of the property indicates that an addition was built in 1992. See Exh. 5. The submitted site plan indicates that there is a 12' x 24' one-story addition on the rear of the dwelling and that there is a 12' x 20' enclosed porch attached to the side of the addition. See Exh. 2.
3. Petitioners would like to construct a 10' x 50' driveway which would extend along the side of the house to the existing 12' x 20' enclosed porch, but variances are needed prior to obtaining a building permit. Since the existing enclosed porch is only 3.5 feet from the side lot line and the existing enclosed front stoop is located only 21.5 feet from the front street line, variances of 4.5 feet side yard width and 3.5 feet front yard depth were requested.
4. Petitioner Oscar Benitez testified that there is no driveway on their property and while on-street parking is permitted, the street is very narrow. He further explained that they propose to have the driveway extend all the way up to the enclosed porch on the left side of the house to replace old concrete and improve the appearance of the property. He stated that the enclosed porch is used as a play area for his children and pets.
5. Mr. Benitez further testified that only 3-4 houses in the neighborhood are without driveways. He stated that because there is a 3-foot incline in the front yard, a retaining wall will be built next to the driveway.

6. Mr. Benitez testified that his property is located on a hill.

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 slope of the property, the existing enclosed front stoop and enclosed porch infringing beyond the required front and side yard setbacks, there being no driveway on the property, the extreme narrowness of the street, old concrete in the side yard needing to be replaced, 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 variances of 3.5 feet front yard depth and 4.5 feet side yard width in order to validate existing conditions and construct a 10' x 50' driveway on the property located at Lot 11, Block P, Park lawn Subdivision, being 7003 17th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2.

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.