

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

RE: Case No. V-102-13 Franco Fresco

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: January 29, 2014.

**CERTIFICATE OF SERVICE**

This is to certify that on April 11, 2014, 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: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
DPIE/Inspections Division  
Other Interested Parties

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

Petitioner: Franco Fresco

Appeal No.: V-102-13

Subject Property: Part of Lots 1 & 2, Good Hope Subdivision, being 9100 Armstrong Lane, Upper Marlboro, Prince George's County, Maryland

Witness: William Moynihan, neighbor

Heard: December 4, 2013; Decided: January 29, 2014

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 side yard at least 8 feet in width and a rear yard at least 20 feet in depth/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 27-442(i)(Table VIII), which prescribes that (on a corner lot) accessory buildings shall be set back 30 feet from the side street line, shall not exceed 15 feet in height and generally be located only in the rear yard. Petitioner proposes to validate existing conditions and obtain a building permit to complete construction of a detached garage. Variances of 2 feet side yard width, 12 feet rear yard depth/width, 7.1% net lot coverage; and 3 feet side street line setback, 4 feet 8 inches accessory building height and a waiver of the rear yard location requirement for an accessory building are requested.

**Evidence Presented**

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

1. The property contains 24,022 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached two-car garage, partially-constructed detached two-car garage and two driveways. Exhibits ("Exhs.") 2, 12 and 13. The existing single-family dwelling was built in 1946. Exhs. 12 and 13.
2. The property consisted of one record lot (Lot 1), subdivided in 1948, until a lot line adjustment was recorded in 1972. Exhs. 4, 5 and 6.
3. The property is a corner lot, with the dwelling facing the legal side street (Armstrong Lane). Exhs. 2, 14(A) thru (E). One driveway, which leads to an attached garage, accesses the legal front street (Ryon Road) and the second driveway, which is semi-circular, accesses both streets. Exhs. 2, 14(A) thru (F). Since the existing one-story dwelling sits in the corner of the property farthest from the intersection and very close to the side and rear lot lines, most of the property is in front of the dwelling. Exh. 2.
4. Petitioner would like to obtain a building permit to complete construction of a 30' x 50' detached garage and a small driveway extension off of the semi-circular driveway (Exh. 2), but variances are needed

to obtain a building permit. The detached garage, located 27 feet from the side street line and in the front yard, has a building height from grade of 19 feet 8 inches. Exh. 2. Variances of 3 feet side street line setback, 4 feet 8 inches accessory building height and a waiver of the rear yard location requirement for an accessory building were requested. Exh. 17.

5. Additional variances are needed to validate existing conditions on the property. Since the existing dwelling is located only 6 feet from the side lot line and 8 feet from the rear lot line at the closest points, variances of 2 feet side yard width and 12 feet rear yard depth/width were requested. In addition, since the allowed amount of net lot coverage is already exceeded by existing development on the property, and construction of the garage and driveway extension causes further coverage, a variance of 7.1% net lot coverage was also requested. Exh. 17.

6. Petitioner testified that he purchased the property in 1978 and began construction of the detached garage in front of his house in May or June 2013. Exhs. 8(A) through (D). He stated that the existing attached two-car garage is "cluttered" and he needs a large garage for the equipment/machinery needed for restoring a vehicle. He explained that he would also like (additional) garage space to store his 28-foot boat and trailer and the proposed garage door must be 14 feet tall to accommodate the height of the boat and trailer.

7. Petitioner explained that subdivision of the subject property left no back yard area (Exhs. 2 and 4), the location of the house pre-existed and there is no other suitable location on the property to build the additional garage. He stated that it would be a hardship to remove the top of the garage (to meet the height requirement). He further stated that the garage is on a concrete slab and has a single door and no windows. Exhs. 3(a) through (c), 8(A) through (D).

8. William Moynihan, a neighbor, supported the request and also stated that Petitioner has no back yard. He also stated that Armstrong Lane is a dead end gravel road. Exhs. 14(A) through (E).

9. Petitioner testified that a proposed neighborhood development is supposed to have a 30-40 foot buffer between the development and his property. Exh. 24. He further testified that an adjoining neighbor built a garage extension about 10-12 years ago. Exhs. 14(B), (C), (D) and (G). He stated that neither Armstrong Lane nor Ryon Road is busy with traffic.

#### 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 dwelling being built before the property was subdivided; the property being a corner lot; the dwelling being located in the corner of the property farthest from the intersection; most of the property being in front of the dwelling; there being a semi-circular driveway in front of the dwelling; a large structure being needed for storage of a large boat and trailer, equipment/machinery needed for vehicle restoration work and vehicles themselves; 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, by majority vote, Ms. Mack in the minority, that variances of 2 feet side yard width, 12 feet rear yard depth/width, 7.1% net lot coverage; and 3 feet side street line setback, 4 feet 8 inches accessory building height and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and obtain a building permit to complete construction of a 30' x 50' detached garage on the property located at Part of Lots 1 & 2, Good Hope Subdivision, being 9100 Armstrong Lane, Upper Marlboro, 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, and the approved elevation plans, Exhibits 3(a) through (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.