

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-23-14 Ismael Tlapeccho & Samuel Hernandez

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: May 7, 2014.

CERTIFICATE OF SERVICE

This is to certify that on May 21, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Office of Law

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

Petitioners: Ismael Tlapecchco and Samuel Hernandez

Appeal No.: V-23-14

Subject Property: Lot 22, Block 8, Whitfield Knolls Subdivision, being 5518 Duchaine Drive, Lanham,
Prince George's County, Maryland

Heard and Decided: May 7, 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, Petitioners request that the Board approve variances from Section 27-442(c)(Table II), which prescribes that not more than 30% 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 patio. A variance of 10.7% net lot coverage and a waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1955, contains 6,055 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing single-family dwelling was built in 1959. Exhs. 9 and 10.

2. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 19447-12-01, dated June 28, 2012, requiring that Petitioner stop work and obtain a building permit for a roof constructed over a patio at the rear of the house. Attachment to Exh. 6 and Exh. 8.

3. Petitioners would like validate existing conditions and obtain a building permit for a 13.8' x 32.9' covered patio on the rear of the existing dwelling, but variances are needed. Since existing development on the property causes the allowed amount of net lot coverage to be exceeded, a variance of 10.7% net lot coverage was requested. Exh. 15.

4. In addition, the location of an existing driveway extending in front of the house, constructed after 2003¹, must be validated. Exh. 8. Since a portion of the driveway extends into the area of the front yard

¹ Driveways built in the prohibited area of the front yard prior to January 1, 2004, are "grandfathered" under Zoning Ordinance Section 27-120.01(d).

prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was also requested. Exh. 15.

5. Petitioner Ismael Tlapecchco testified that he has lived at the property for 10-11 years. He stated that an uncovered patio and smaller driveway pre-existed. He explained that there is a steep hill located behind the house contributing to water getting into the basement. Exhs. 3(A) and 11(D). He testified that he extended the patio about 5 feet and covered it; he also extended the driveway towards the sidewalk in front and back toward the shed because of mud. He further stated that the patio roof has guttering and that he put in drains that carry water to the street. He testified that he has had no further water problems after the changes were made.

6. Mr. Tlapecchco testified that he desired a larger driveway to accommodate his three vehicles. He added that the original driveway was cracked and needed replacement.

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 sloping topography at the rear of the property, a patio and driveway existing at the time of purchase, extending the driveway and covering the patio helping to mitigate the effects of runoff water, the driveway extending to steps leading to a shed built into the hill in the rear yard, the need for additional parking area, 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 a variance of 10.7% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for a 13.8' x 32.9' covered patio on the property located at Lot 22, Block 8, Whitfield Knolls Subdivision, being 5518 Duchaine Drive, Lanham, 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.