

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-22-14 Derrick & Daria Bailey

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

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

Petitioners: Derrick & Daria Bailey

Appeal No.: V-22-14

Subject Property: Lot 24, Tignor West Subdivision, being 11109 Pompey Drive, Upper Marlboro, 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 a variance 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 requests that the Board approve a variance 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. Petitioners propose to construct an attached garage. A variance of 7 feet side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 2000, contains 10,906 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling with a two-car garage, driveway, swimming pool and basketball court. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 2002. Exhs. 7 and 8.

2. The property is located within an approved cluster subdivision. Exhs. 4 and 16.

3. The property is an odd-shaped lot, narrowing from front to rear. The right side and rear of the property adjoin the common area of the cluster subdivision. Exhs. 2 and 4.

4. Petitioners would like to construct an 11.5' x 25' attached garage, accessed by existing driveway area, but a variance is needed to obtain a building permit. Since the proposed garage would be located 1 foot from the side lot line, a variance of 7 feet side yard width was requested. Exh. 11.

5. Petitioner Daria Bailey testified that the property next door has been vacant for 5 years and believes squatters use it. She explained that items have been stolen from her husband's truck (Exh. 20) and the proposed garage will protect their vehicles.

6. Mrs. Bailey further testified that there have been no objections to their proposal from the neighbors.

7. Petitioner Derrick Bailey testified that the variance for the proposed garage is needed because the property narrows towards the back of the existing garage.

8. Mrs. Bailey testified that the narrowness in the rear of the subject property is unique to the properties in the neighborhood. See also Exh. 4.

9. She testified that Tignor West Homeowners Association went defunct approximately 6 years ago and there is no civic association.

10. The Subdivision Section of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") commented that Exhibit 2 (site location drawing) correctly reflects the bearings, distances, and lot size as reflected on the record plat. The Subdivision Section further commented that the property is subject to Detailed Site Plan SP-95081 for a cluster development, and that it was determined by the Supervisor of the Application Section, M-NCPPC, that the detailed site plan (SP-95081), which is referenced on the record plat, has no impact on review of this request for a variance. Exh. 16.

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

Due to the unusual shape of the property, the property narrowing from front to rear, the narrowing at the rear being unique to the neighborhood, the location of the proposed garage allowing use of existing driveway area to access the structure, the need for additional garage space to secure their vehicles, 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 7 feet side yard width in order to construct an 11.5' x 25' attached garage on the property located at Lot 24, Tignor West Subdivision, being 11109 Pompey Drive, Upper Marlboro, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) and (b).

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.