

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-93-15 Victor Ayala and Nubia Pacheco

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: October 14, 2015.

CERTIFICATE OF SERVICE

This is to certify that on January 13, 2016, 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: Victor Ayala and Nubia Pacheco

Appeal No.: V-93-15

Subject Property: Lot 11, Block 2, Brookside Manor Subdivision, being 6209 20th Place, Hyattsville,
Prince George's County, Maryland

Heard: September 30, 2015; Decided: October 14, 2015

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 corner lot shall have a side yard along the side street at least 25 feet in depth; 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 27-442(i)(Table VIII), which prescribes that not more than 25% of the rear yard shall be covered by accessory buildings; and Section 27-442(i)(Table VIII), which prescribes that on corner lots accessory buildings shall be set back 30 feet from the side street line and 10 feet from the rear lot line. Petitioners propose to validate existing conditions and construct a detached garage. Variances of 4 feet side street yard depth¹, 3.3% net lot coverage, 2.9% rear yard coverage, and 11 feet side street line and 2.5 feet rear lot line setbacks for an accessory building are requested.²

Evidence Presented

1. The property was subdivided in 1941, contains 5,200 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 5, 8, 9 and 22. The dwelling was built in 1943. Exhs. 8 and 9.

2. The property is an irregular-shaped corner lot with the house facing the legal front street. The yard narrows behind the house. Exh. 3.

3. Petitioners would like to construct a 20' x 20' detached garage toward the back of an existing driveway (Exh. 23), but variances are needed to obtain a building permit. Since the property is a corner lot and the garage would be located 27.5 feet from the side street line and 8 feet from the rear lot line at the closest points, variances of 2.5 feet side street line setback and 2 feet rear lot line setback for an accessory building are required.

¹ Pursuant to Zoning Ordinance Section 27-118(c), since the dwelling was constructed prior to November 29, 1949 (Exhs. 8 and 9), no variance for the dwelling's setback from the side street is necessary.

² Petitioners' initial site plan proposes a 20' x 30' detached garage that would be located 19 feet from the side street line and 7.5 feet from the rear lot line (Exh. 3); the variances required were duly advertised (Exh. 14). Petitioners later submitted a revised site plan, however, which proposes a 20' x 20' detached garage which meets larger setbacks. Exh. 22. Due to revision of the site plan, the lot coverage variance needed is smaller and no variance for rear yard coverage is necessary. Exhs. 24 and 25.

4. In addition, since construction of the detached garage would cause the allowed amount of net lot coverage to be exceeded, a variance of 2% net lot coverage is also required. Exh. 24.

5. Petitioners stated that the subject property has an irregular shape. Exh. 2.

6. Petitioner Nubia Pacheco testified that an old shed behind the house is in disrepair. Exh. 6(C). She further stated that the shed is not secure and water enters the shed when it rains. She stated that the shed will be removed before constructing the garage.

7. She testified that the neighbor who lives on the other side of the proposed garage has a shed between the shared property line and their house (Exh. 6(C)) and did not object to the proposed plan to build the garage.

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 being a corner lot, the unusual shape of the property, the dimensions of the property, the yard narrowing behind the house, the need for secure storage and parking protected from the weather, the existing shed being removed, 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 2% net lot coverage and variances of 2.5 feet side street line setback and 2 feet rear lot line setback for an accessory building in order to validate existing conditions and construct a 20' x 20' detached garage on the property located at Lot 11, Block 2, Brookside Manor Subdivision, being 6209 20th Place, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22, and the approved revised elevation plan, Exhibit 23.

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.