

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-70-15 Manuel and Ana Caballero

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: September 9, 2015.

CERTIFICATE OF SERVICE

This is to certify that on September 17, 2015, 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: Manuel and Ana Caballero

Appeal No.: V-70-15

Subject Property: Lot 7, Block B, Adelphi Terrace Subdivision, being 9013 Highland Drive, Hyattsville, Prince George's County, Maryland

Heard: August 19, 2015; Decided: September 9, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 request that the Board approve a variance from Section 27-120.01(c) of the Zoning Ordinance, 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 construct a driveway in the front yard. A waiver of the parking area location requirement is requested.

Evidence Presented

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

1. The property was subdivided in 1950, contains 10,000 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and a shed. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1953. Exhs. 6 and 7.

2. The left side yard is approximately 12 feet in width. Exh. 2.

3. The property is located at a dead end of the street, Highland Drive. Exhs. 8(A) through (E).

4. Petitioners would like to construct a 20' x 25' driveway¹, but a variance is needed to obtain a building permit. Since a portion of the driveway would be located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 10.

5. Petitioner Manuel Caballero testified that he would like to construct the driveway on the left side of the property because the right side of the property has a utility pole and guide wires. Exh. 4(E). He further explained that the proposed driveway will extend in front of the house because the driveway must be located three feet from the left side property line.²

6. He further testified that there is commercial property to the left of his property. Exhs. 8(A) through (E).

¹ Petitioners submitted a revised site plan reducing the width of the proposed driveway from 20 feet to 10 feet. Exh. 16.

² Prince George's County Code Section 23-139(a)(1) requires that the width of a residential driveway apron be at least 10 feet and that the apron be no closer than 3½ feet from the nearest abutting property line.

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 property being located at a dead end, a utility pole and guide wires preventing construction of a driveway on the right side of the property, the driveway apron being required to be at least 10 feet wide and be no closer than three and half feet from the left side lot line, 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, by majority vote, Mr. Scott absent, that a waiver of the parking area location requirement in order to construct a 10' x 25' driveway in the front yard on the property located at Lot 7, Block B, Adelphi Terrace Subdivision, being 9013 Highland Drive, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 16.

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.