

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-28-15 Jose Perla and Sara Cortez

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 13, 2015.

CERTIFICATE OF SERVICE

This is to certify that on June 29, 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
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Jose Perla and Sara Cortez

Appeal No.: V-28-15

Subject Property: Lots 41 & 42, Block 3, Columbia Highlands Subdivision, being 6131 Osborn Road,
Hyattsville, Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard and Decided: May 13, 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(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d)(Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; 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 construct a driveway extension in the front yard. Variances of 1,300 square feet net lot area, 10 feet front building line width, 4.9% 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 prior to 1909, contains 3,700 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2 through 5. The existing dwelling was built in 1963. Exhs. 4 and 5.
2. The property is composed of two zoning lots, each of which is 20' x 92.5', the typical size of a lot in the subdivision where the subject property is located. Exhs. 2 and 3.
3. Petitioners would like to construct an 8' x 16' extension to widen the existing driveway in the front yard, but variances are required before obtaining a building permit for the proposed construction. Since the existing driveway already extends in front of the dwelling and the proposed driveway extension will cause the driveway to extend even farther in front of the dwelling, the area prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. In addition, because construction of the driveway extension will cause the allowed amount of net lot coverage to be exceeded, a variance of 4.9% net lot coverage was also requested. Exhs. 8 and 9.

4. If a building permit is pursued, additional variances are also necessary to validate certain existing conditions. Since the lot size and width at the front building line do not meet the current minimum requirements for R-55 zoned lots, variances of 1,300 square feet net lot area and 10 feet front building line width were requested to validate those existing conditions. Exh. 9.

5. Petitioner Jose Perla testified that he has lived at the subject property since December. He stated that the existing driveway has room for only his car and he wants to be able to accommodate a 16-foot boat next to his car.

6. He stated that there is a two-car driveway and a four-car driveway on neighborhood properties.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property.

2. Even assuming, *arguendo*, that the narrowness of the lot may raise a Section 27-230 concern, the strict application of the Zoning Ordinance would not result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon Petitioner.

BE IT THEREFORE RESOLVED, unanimously, that variances of 1,300 square feet net lot area, 10 feet front building line width, 4.9% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and construct a 8' x 16' driveway extension in the front yard on the property located at Lots 41 & 42, Block 3, Columbia Highlands Subdivision, being 6131 Osborn Road, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.