

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-8-15 Stephen Jarvis

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: February 25, 2015.

CERTIFICATE OF SERVICE

This is to certify that on March 25, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division

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

Petitioner: Stephen Jarvis

Appeal No.: V-8-15

Subject Property: Lot 10, Block Eye, Allenwood Acres Subdivision, being 4504 Simmons Lane,
Temple Hills, Prince George's County, Maryland

Witness: Cary Rayle, co-resident of subject property

Heard and Decided: February 25, 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 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, Petitioner requests 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. Petitioner proposes to validate and obtain a building permit for a new 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 1963, contains 10,000 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1965. Exhs. 7 and 8.

2. Petitioner was cited with Building Violation Notice No. 3243-2015-0, dated December 22, 2014, by the Department of Permitting, Inspections and Enforcement, requiring that permit(s) be obtained for work done at the property, including but not limited to a driveway in the front yard, or the work be removed and the original condition be restored. Exhs. 5 and 6.

3. Petitioner would like to validate existing conditions on the property and obtain a building permit for a new 20.3' x 31.35' driveway in the front yard (Exh. 4(A)), but a variance is needed to obtain the permit. Since the driveway is located in the area prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 10.

4. Cary Rayle testified that a parking problem exists in the neighborhood. He stated that the double-wide driveway was built because the existing single-width driveway was old, cracked and crumbling. Exh. 9(F).

5. Mr. Rayle further testified that the rear yard has a steep downward slope and there is a 4-5 foot drop off on the left side of the property. Exhs. 4(A), 9(B) and (F). He explained because of the "cliff" to the

left side of the house, the driveway could not be constructed there without major grading and a retaining wall, which he believed would be unattractive and probably dangerous.

6. Mr. Rayle stated that there are quite a few double driveways in the neighborhood, but none on their street (Simmons Lane).

7. Owners of two adjoining properties supported Petitioner's request. Exhs. 18 and 19.

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 sloping topography of the subject property, an old single-width driveway needing to be replaced, the replacement driveway being larger and located in front of the house, the steep drop-off on the left side of the property preventing installation of a driveway to the side without major grading and a retaining wall, 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a waiver of the parking area location requirement in order to validate and obtain a building permit for a new 20.3' x 31.35' driveway in the front yard on the property located at Lot 10, Block Eye, Allenwood Acres Subdivision, being 4504 Simmons Lane, Temple Hills, 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.

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.