

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-83-14 Paul Oriaifo

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: January 7, 2015.

CERTIFICATE OF SERVICE

This is to certify that on March 3, 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
Other Interested Parties

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

Petitioner: Paul Oriaifo

Appeal No.: V-83-14

Subject Property: Lot 2, Block A, Botley Estates Subdivision, being 8714 Fort Foote Road, Fort Washington, Prince George's County, Maryland

Witnesses: Betty Jane Oriaifo, Petitioner's daughter

Alonzo Malone, Petitioner's nephew

Nandlal Gevaria, Arya Civil LLC

Sarah Cavitt, Indian Head Highway Action Council

Heard: November 19, 2014; Decided: January 7, 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, Petitioner requests that the Board approve variances from 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 on corner lots accessory buildings shall be set back 60 feet from the front street line, 30 feet from the side street line, 2 feet from any side or rear lot line and 10 feet from the rear lot line if not 60 feet from the side street line. Petitioner proposes to validate and obtain a building permit for a deck, driveway area and two detached carports. Variances of 18.4% net lot coverage, 9 feet rear lot line setback for one accessory building and 1 foot rear lot line setback for a second accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1963, contains 10,547 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway area, attached garage, two detached carports and a 4-foot fence and gate. Exhibits ("Exhs.") 4, 10, 11 and 34. The dwelling was built in 1965. Exhs. 10 and 11.

2. The property is a corner lot at the intersection of Fort Foote Road and Dover Street. The existing dwelling faces the legal front street (Fort Foote Road). Driveway access is off of the front street. Exh. 34.

3. Petitioner was issued Building Violation Notice No. 34295-14-00, dated August 20, 2014, by the Department of Permitting, Inspections and Enforcement, Inspections Division for the completed construction of driveways, retaining walls, carports, concrete slabs, a chimney and a deck without building permit(s). Exh. 7.

4. Petitioner would like to validate certain property conditions and obtain a building permit for a 16' x 12'8" deck, 18'6" x 18'6" detached carport, 15'2" x 18'6" detached carport and driveway area, but variances are needed to obtain the permit. Since construction of driveway area and the carports has caused the allowed

amount of net lot coverage to be exceeded, a variance of 18.4% net lot coverage was requested.¹ Exhs. 14 and 15.

5. Variances are also necessary to validate the location of two accessory structures. Since one carport is located 47 feet from the side street line and 1 foot from the rear lot line and the other carport is located about 67 feet from the side street line and 1 foot from the rear lot line, variances of 9 feet rear lot line setback for one carport and 1 foot rear lot line setback for the other carport were requested. Exh. 15.

6. New concrete now completely encircles the dwelling. Petitioner proposes to place planters on the concrete and use only certain areas of the concrete as driveway area. Although concrete area extends to the property line along both streets, no driveway apron yet exists on the Dover Street side of the property. Petitioner proposes to prevent the use of one gate and driveway apron on the Fort Foote Road side of the property extremely close to the intersection and put in a driveway apron along Dover Street to access existing concrete area and provide alternate access to the two existing detached carports. Exh. 34.

7. Petitioner testified that he has owned the property since 1998, but until two months ago lived at another property. He explained that when his wife recently died he wanted to move to the subject property. He stated that he is a medical doctor – a general surgeon and traumatologist – and he gives lectures on injury protection and safety. He stated that on that basis he has made the modifications to the subject property related to the terrain and location. He explained that Exh. 20 shows a quarter mile stretch of Fort Foote Road in each direction from his property. He stated that Fort Foote Road goes up a steep hill to National Harbor in one direction, there is a bend in the road in front of his house where there is a turn (Dover Street), and the hill continues downward toward Indian Queen in the other direction. Exhs. 20, 26 through 28, 32. He stated that traffic has increased and it is wooded all along the road. He stated that there are no speed checks along the entire half mile stretch and cars are constantly losing control at the bend in the road. He explained that his vehicle has been side-swiped twice and his curb and plants have been damaged. Exhs. 29 through 31. Petitioner further testified that he has made the modifications to his property solely to protect himself and his family. He explained that he needed to be able to drive forward to enter and exit the subject property because backing out into the street is too dangerous with the speeding traffic.

8. Nandlal Gevaria, Petitioner's engineer, explained why there is so much concrete on the property. He testified that Petitioner obtained a permit to do interior alterations to the existing house. He explained that at that time Petitioner replaced an existing driveway with new concrete and also put in a second driveway (off of Fort Foote Road near the intersection with Dover Street). Exhs. 27, 28, 33(A) and (B). He stated that the second driveway was not permitted, they received the violation and when they went to get a permit they instead proposed the driveway off of Dover Street that goes to the back. Exhs. 5(C) and (D), 23 and 34. He explained that Petitioner intends to fence off the second driveway off of Fort Foote Road (near the corner) and place new permanent planters on the concrete to reduce driveway area and prevent parking in front of the house. Exh. 34. Petitioner will then only use the driveway off of Fort Foote Road leading to the attached one-car garage or the driveway off of Dover Street which access the rear yard where the carports are located. He explained that in hopes of keeping the concrete, Petitioner has a plan to handle runoff water with "stormwater planters" with perforations and a drain pipe system.

9. Betty Jane Oriaifo, Petitioner's daughter, testified that the original driveway was a semi-circle but explained that there are now five adults – her father and four adult children – who now need to park their vehicles. She stated that even though there is a lot of cement area, there remains plenty of grassy area and plants.

10. Alonzo Malone testified that the garage has always existed. He stated that is a curb cut where new concrete was placed on the second driveway on Fort Foote Road but the County has disallowed an

¹ Revision of the original site plan reduced the variance request to 13.8% net lot coverage. The revised site plan indicates that 10 planters will be installed on the concrete, 10 rain barrels will be placed on the property to catch runoff water and a shrub at the corner will be removed. Exhs. 34 and 35.

apron. He further stated that there are many plantings and a lot of grass left in spite of the (new) concrete. He suggested rain barrels could be used to collect runoff water.

11. Petitioner provided a photograph of a similarly-situated property located at 9548 Fort Foote Road which has two driveways. Exh. 6.

12. Sarah Cavitt, a member of the Indian Head Highway Action Council (the "Council"), testified that because a significant amount of concrete appeared as well as a sign on the house saying "Chateau Eleganza", the Council was concerned that a commercial establishment, maybe a bed and breakfast, was operating on the property. Exhs. 33(A) through (C). Besides that, she is also concerned that a safety issue exists when cars come out of Dover Street to make a right turn onto Fort Foote Road because the plantings at the front of the subject property may impair the line of sight for cars coming up Fort Foote Road. Two other concerns were the amount of stormwater runoff caused by all of the concrete and the pointed roofs on the carports directing water onto neighboring properties. She stated that a driveway apron at the corner exists and opined that Petitioner could have put in some pervious surface instead of the concrete. She believes that rain barrels would be helpful also. She explained that there is no entrance to National Harbor from Fort Foote Road, so no vehicles exit from National Harbor onto Fort Foote Road except during special events.

13. Betty Jane Oriailo believes that a bush located at the corner is not large enough to block the view of even a small car, but is willing to remove it.

14. The Historic Preservation Section of M-NCPPC commented that the subject property is located within a quarter mile of Fort Foote Historic Site 80-006 and that the variance request will have no effect on Historic Sites or Historic Resources. Exh. 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a corner lot; the property being located on a hill and fronting on a bend in Fort Foote Road; the danger of high speed traffic leaving the roadway and veering onto the front of the property; the need for safe vehicular ingress to and egress from the property; the need for parking area away from the front of the property; stormwater-friendly planters, drain pipes and rain barrels being proposed as mitigation for the paved area; 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 variances of 13.8% net lot coverage, 9 feet rear lot line setback for one accessory building and 1 foot rear lot line setback for a second accessory building in order to validate and obtain a building permit for a 16' x 12'8" deck, 18'6" x 18'6" and 15'2" x 18'6" detached

carports and driveway area on the property located at Lot 2, Block A, Botley Estates Subdivision, being 8714 Fort Foote Road, Fort Washington, 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 34, and the approved elevation plan, Exhibit 3.

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.