

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-87-14 Ayana Seibles

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: November 19, 2014.

CERTIFICATE OF SERVICE

This is to certify that on December 22, 2014, 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

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

Petitioner: Ayana Seibles

Appeal No.: V-87-14

Subject Property: Lot 4, Block A, Woodmore Acres Subdivision, being 12707 Woodmore Road, Bowie, Prince George's County, Maryland

Counsel for Petitioner: Michael S. Nagy, Esq.

Heard and Decided: November 19, 2014

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 10% of the net lot area shall be covered by buildings and off-street parking, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioner proposes to validate an existing condition and construct a detached garage in the side yard. Variances of 2.3% net lot coverage and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The subject property was subdivided in 1991, contains 104,467 square feet (2.3982 acres), is zoned R-A (Residential-Agricultural) and is improved with a single-family dwelling, an asphalt driveway and parking area. Exhibits ("Exhs.") 2, 3, 5, 10 and 11. The existing dwelling was built in 2007. Exhs. 10 and 11.

2. The property is located on the south side of Woodmore Road approximately 460 feet east of its intersection with Pleasant Prospect Road. The property as currently configured was created in 1991 as part of a five lot subdivision entitled "Woodmore Acres." All five lots share a 22-foot-wide ingress/egress easement. The subject property (Lot 4) is located at the southeastern terminus of the easement approximately 442 feet south of Woodmore Road. Surrounding land uses include single-family residences to the north, east and west (all in the R-A Zone) and a parcel owned by the Maryland-National Capital Park and Planning Commission to the south (zoned O-S). Exh. 2.

3. The subject property is an odd-shaped lot located at the end of a right-of-way easement. A portion of the property is 100-year flood plain easement area. Exhs. 3 and 5.

4. The maximum amount of net lot coverage permitted on the property (10%) is already exceeded with existing construction and without a variance Petitioner is unable to construct the proposed accessory building on the property. Petitioner would like to construct a 43' x 50' detached garage, but variances are needed to obtain a building permit. Since the garage would be located in the side yard at the end of the

existing driveway and construction of the garage would cause a further overage of net lot coverage, a waiver of the rear yard location requirement for an accessory building and a variance of 2.3% net lot coverage were requested. Exhs. 14 and 15.¹

5. Counsel for Petitioner argued that granting the request is justified based on the requirements of Section 27-230 of the Zoning Ordinance:

(A) The property is long (720+ feet) and narrow (178 feet max.) and configured with a short projection connecting the developable area to the 22-foot-wide ingress-egress easement that in turn provides access to Woodmore Road. The specific parcel of land is also encumbered by non-tidal wetlands, a 100 year floodplain easement and a stream buffer all located within the 0.8245 acre (35,914 sq. ft.) Primary Management Area ("PMA"). Subtracting the PMS from the gross site area yields a net usable lot area of 1.5738 acres. More than 34 percent (34.3%) of the site is permanently protected as PMA and cannot be developed. Due to the configuration of the property, the location of the ingress-egress easement and narrowness of the property, the amount of driveway to serve the property is extraordinary. Nearly 2,400 square feet of driveway (or 23% of the allowable lot coverage) is required to connect the parking area to the ingress-egress easement. Exh. 2.

(B) An unreasonable hardship and undue burden on Petitioner would result if strict compliance with the regulations in the Zoning Ordinance were required because Petitioner would not be allowed to construct any accessory building on the property. Exh. 2. Counsel explained that the proposed garage would provide Petitioner with an enclosed parking area and additional needed storage space.

(C) The proposed use is in conformance with the Plan Prince George's 2035 (Adopted 2014 General Plan (the "General Plan")) and the 2006 Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment (the "Master Plan"). Both the General Plan and the Master Plan speak to developing residential communities at low to medium densities in this area of the County. The requested variance will not impair the intent, purpose or integrity of the General Plan's Established Communities policies, nor will it impair the intent, purpose or integrity of the Approved Master Plan. Exh. 2.

7. Husam Hijazi, owner of adjoining property, does not oppose the request as long as a privacy fence is constructed high enough to prevent the pool area from being viewable from his property. Exh. 21.

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 unusual shape of the lot, the narrowness of the property, the configuration of the lot and location of the ingress-egress easement causing the amount of driveway needed to serve the property to be

¹ The Board approved a waiver of the rear yard location requirement in 2004 (Appeal No. V-26-04) for construction of a new single-family dwelling with a smaller detached garage. Exh. 7.

extraordinary, the property being encumbered by non-tidal wetlands, a 100 year floodplain easement and a stream buffer, such encumbrance significantly reducing the amount of lot area which may be developed, the need for enclosed parking and additional storage space, 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 2.3% net lot coverage and a waiver of the rear yard location requirement for an accessory building in order to validate an existing condition and construct a 43' x 50' detached garage in the side yard on the property located at Lot 4, Block A, Woodmore Acres Subdivision, being 12707 Woodmore Road, Bowie, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 3, and the approved elevation plan, Exhibit 4.

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.