

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-79-13 LaShawn Eley

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: October 23, 2013.

CERTIFICATE OF SERVICE

This is to certify that on December 4, 2013, 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: LaShawn Eley

Appeal No.: V-79-13

Subject Property: Lot 42, Block 28, A Resubdivision of a Portion of Block 28, An Addition to Hynesboro Subdivision, being 9125 Lanham Severn Road, Lanham, Prince George's County, Maryland

Witness: Victoria Adams

Heard: September 11, 2013; Decided: October 23, 2013

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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width; Section 27-442(c)(Table II), which prescribes that not more than 25% 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. Petitioner proposes to validate existing conditions and obtain a building permit for a driveway in the front, side and rear yards and a 6-foot privacy fence. Variances of 1 foot side yard width, 32.9% 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 in 1941, contains 11,151 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 3, 7, 8 and 21. The existing single-family dwelling was built in 1954. Exhs. 7 and 8.

2. The lot is regular in its shape and size (Exhs. 3 and 21) and is surrounded by other residentially-zoned property. Exh. 23(A).

3. Building Violation Notice No. 33727-10-01, dated June 16, 2011, was issued by the Department of Environmental Resources, Licenses & Inspections Group, requiring that Petitioner obtain a building permit for driveway paving in the front, side and rear yard and a 6-foot fence or remove them and restore the property to its original condition. Exhs. 5 and 6.

4. Petitioner would like to validate conditions on the property and obtain a building permit for the concrete driveway area in the front, side and rear yards on the property, as well as 6-foot privacy fencing (gates) extending from each side of the dwelling to the side lot lines, but variances are needed to obtain a permit. Exh. 21. Since a portion of the driveway area is located in the area of the front yard prohibited by

Section 27-120.01(c), and construction of the driveway area caused the allowed amount of net lot coverage to be exceeded, a variance of 32.9% net lot coverage and a waiver of the parking area location requirement were requested. Exhs. 11 and 12.

5. In addition, for a building permit to be obtained, a variance is needed to validate a setback for the existing house because the house is located only 7 feet from the side lot line on one side. A variance of 1 foot side yard width was requested. Exh. 12.

6. Petitioner testified that when she purchased the property approximately two and a half years ago there was cement in front (Exhs. 4(A) and (B)) and gravel in back of the house and she replaced the gravel with cement (Exhs. 4(C) and (D)). She further testified that there are other properties with a lot of concrete and paved driveways in the front, but did not provide photographs of the properties. She stated that there is a property nearby that has a day care sign and 10 cars parked in front. She further stated that she cannot put a driveway in like others because of a big tree and a bus stop out front.

7. Petitioner explained that the tall fence that goes all around the property belongs to a neighbor (Exhs. 19(A) through (D)), but she added the privacy gates on both sides of the house for safety.

8. Victoria Adams testified that concrete was put in the rear of the property because the yard was so hard to walk on and she and Petitioner were contemplating making a playground in the rear for children.

9. An aerial photograph taken in 2009 appears to show that there was no concrete driveway area on the subject property at that time. Exh. 24.

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 Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented. Exhibits 3, 9(A) through (G), 21, 23(A) through (C), and 24. We note that Petitioner argues that the existence of a tree and bus stop provides a basis to grant the variances. The Board finds that evidence insufficient to justify the variances, particularly the significantly large net lot coverage variance requested and waiver of the front yard parking restriction.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that variances of 1 foot side yard width, 32.9% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for driveway area in the front, side and rear yards and for 6-foot privacy fencing (gates) on the property located at Lot 42, Block 28, A Resubdivision of a Portion of Block 28, An Addition

to Hynesboro Subdivision, being 9125 Lanham Severn Road, Lanham, 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.