

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-117-13 Gregoria Israel

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 26, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on March 10, 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
Town of Morningside

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

Petitioner: Gregoria Israel

Appeal No.: V-117-13

Subject Property: Lot 27, Block B, Upper Morningside Subdivision, being 4516 Allies Road, Morningside,
Prince George's County, Maryland

Municipality: Town of Morningside

Heard: January 29, 2014; Decided: February 26, 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 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 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings. Petitioner proposes to construct a detached two-car garage and extend existing driveway. A variance of 13.3% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1941, contains 9,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 9 and 10. The single-family dwelling was built on the property in 1946. Exhs. 9 and 10.
2. The property is an odd-shaped lot, being almost triangular, is wider at the front than at the rear, and has a curved front street line. Exh. 2.
3. A permit was obtained in 2012 to enlarge the dwelling. Exh. 8.
4. Petitioner would like to construct a 24' x 34' detached two-car garage and extend the existing driveway, but a variance is needed to obtain a building permit. Since construction of the garage and driveway would cause the allowed amount of net lot coverage to be exceeded, a variance of 13.3% net lot coverage was requested. Exhs. 12 and 13.
5. Petitioner testified that she is an electrical contractor and needs storage space as well as parking protection for her truck. She explained that the angle of her lot prevents location of the proposed garage on the side of the house
6. The Town of Morningside stated that it had no comment on the request. Exh. 23.
7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed Petitioner's request as to any subdivision issues and commented that Petitioner's site diagram (Exh. 2) correctly reflects the bearings, distances, lot size and recorded 35-foot building line (BL) from Allies Road as reflected on the record plat and that no buildings or extensions thereof are proposed within the recorded building line. 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the lot, the angle of the side property line preventing the garage structure from being built to the side of the house, the need for additional storage space and an enclosed structure to park a truck, the extension and size of the enlarged driveway area needed to access the proposed garage in the rear yard, 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 variance of 13.3% net lot coverage in order to construct a 24' x 34' detached two-car garage and extend the existing driveway on the property located at Lot 27, Block B, Upper Morningside Subdivision, being 4516 Allies Road, Morningside, 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, and the approved elevation plans, Exhibits 3(a) through (d).

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.