

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-113-13 Theodore & Juanita Battle

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 15, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on March 5, 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: Petitioners
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

Petitioners: Theodore & Juanita Battle

Appeal No.: V-113-13

Subject Property: Lot 3, Block A, Adelphi Hills Subdivision, being 8605 Riggs Road, Hyattsville,
Prince George's County, Maryland

Witness: Rodney Davis, neighbor

Heard and Decided: January 15, 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, Petitioners request 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 9 feet in width; 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 27-120.01(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. Petitioners propose to validate existing conditions and obtain a building permit for an existing driveway. Variances of 1 foot side yard width, 8.9% 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 1952, contains 6,656 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing single-family dwelling was built in 1955. Exhs. 6 and 7.
2. The property has an asymmetrical configuration, with the lot narrowing from front to rear. Exh. 2.
3. Petitioners would like to validate and obtain a building permit for an existing 8.9' x 44.4' concrete driveway, which is partially located in front of the house and adjoins an existing joint macadam driveway that extends beyond the side property line. Exh. 2. Since a portion of the concrete driveway is located in the area of the front yard prohibited by Section 27-120.01(c) and construction of the driveway caused the allowed amount of net lot coverage (30%) to be further exceeded, a variance of 8.9% net lot coverage and a waiver of the parking area location requirement were requested. Exhs. 11 and 12.
4. In addition, since the existing dwelling is located 8 feet from the right side lot line, the existing porch, which is enclosed, is located only 8 feet from the left side lot line at the closest point and one side yard must be at least 9 feet in width, a variance of 1 foot side yard width was requested to validate this existing condition. Exh. 12.

5. Petitioner Theodore Battle testified that after he widened the existing driveway without having a curb cut (Exh. 4(G)), a County contractor that was widening curb cuts up and down Riggs Road informed him that his curb cut would be done free of charge. Exhs. 4(B) and (D). Petitioner explained that a County inspector later instructed him to obtain a permit for the construction.

6. He also explained that sharing a driveway with a neighbor caused his family to have to move a vehicle each time another vehicle has to be moved out of the common driveway. He testified that the previous driveway was wide enough for two cars and the driveway was therefore widened to accommodate three vehicles. Exhs. 2, 4(B) and (C), 8(B) and (D) through (F). He also recalled that at the time he widened the driveway he needed to be able to get out the driveway (promptly) to take his mother-in-law to the hospital.

7. He testified that he enclosed the porch and built one shed; the other shed existed when he purchased the property.

8. Rodney Davis, a neighbor who lives across the street from Petitioners, supported the request. He testified that he too has a driveway and curb cut that was widened when curb cuts were placed on both sides of Riggs Road. He stated that Riggs Road is a busy street with traffic and a small side lane is used for emergencies.

9. Petitioner Juanita Battle testified that there are many automobile accidents in the area.

10. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and stated that the subject lot is subject to a recorded 45-foot building restriction line (BRL) along Riggs Road as reflected on the record plat and no buildings or extensions thereof are proposed within the recorded BRL. Exh. 17.

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 asymmetrical configuration of the lot, the house being built many years ago, the location of an existing driveway that is shared with the adjoining property, Riggs Road being a busy street for traffic, the widened driveway area providing safer access to the public street, 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 1 foot side yard width, 8.9% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for an existing 8.9' x 44.4' driveway on the property located at Lot 3, Block A, Adelphi Hills Subdivision, being 8605 Riggs Road, Hyattsville, 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 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.