

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-40-14 Cesar Vivar

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: June 18, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on June 30, 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
DPIE/Inspections Division

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

Petitioner: Cesar Vivar

Appeal No.: V-40-14

Subject Property: Lot 10, Block 18, Seabrook Park Estates Subdivision, being 9229 Alcona Street, Lanham,
Prince George's County, Maryland

Heard and Decided: June 18, 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 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. Petitioner proposes to validate and obtain a building permit for a newly constructed concrete driveway. A variance of 2% 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 1963, contains 7,819 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing single-family dwelling was built in 1965. Exhs. 6 and 7.
2. Petitioner would like to obtain a building permit for a new 15' x 90' concrete driveway, but variances are needed to obtain the permit. Since construction of the driveway caused the allowed amount of net lot coverage to be exceeded, a variance of 2% net lot coverage was requested. Exhs. 9 and 10.
3. In addition, since a portion of the driveway is located in an area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was also requested. Exh. 10.
4. Petitioner testified that he replaced the existing driveway with a larger driveway. Exhs. 4(A) and (B). He conveyed that when his mother sought a building permit for construction of the driveway she was informed that a building permit was not needed. Petitioner stated that two days after he completed construction of the new driveway, he was notified by the County of a complaint by a neighbor about the driveway and instructed by the County to obtain a permit.
5. Petitioner explained that part of the driveway extends 3 feet over in front of his house and is 90 feet long, extending to a retaining wall at the bottom of a hill in his back yard. Exhs. 4(A) and (B). He stated that an adjoining neighbor on the right side of his property has a similar driveway that extends also to

a wall in (that neighbor's) rear yard. Exhs. 8(B) and (D). He further stated that water runoff flows to the street.

6. Petitioner added that there is insufficient on-street parking for his family.

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 existing conditions on the property, the previous driveway having been replaced with a larger driveway, there being insufficient on-street parking on Petitioner's 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 2% net lot coverage and a waiver of the parking area location requirement coverage in order to validate and obtain a building permit for a new 15' x 90' concrete driveway on the property located at Lot 10, Block 18, Seabrook Park Estates Subdivision, being 9229 Alcona Street, Lanham, 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.