

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-115-15 Espidia Vargas

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: December 2, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on January 7, 2016, 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: Espidia Vargas

Appeal No.: V-115-15

Subject Property: Lot 1, Block B, Cool Spring Estates Subdivision, being 3311 Cool Spring Road, Adelphi,  
Prince George's County, Maryland

Counsel for Petitioner: Richard C. Daniels, Daniels & Daniels, LLC (not present at hearing)

Witness: Babak Salimi, Petitioner's husband

Heard: November 4, 2015

Action on Request to Reopen Record: December 2, 2015

Decided: December 2, 2015

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 27-120.01(c) of the Zoning Ordinance, 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 driveway extension in the front yard. A waiver of the parking area location requirement is requested.

A hearing was held on the request on November 4, 2015, and the record was held open for specific technical assistance from a County agency and to allow Cool Spring Terrace Civic Association the opportunity to submit comments. On November 18, 2015, a request was received from Richard C. Daniels, an attorney, on behalf of Petitioner to reopen the record for consideration of his letter dated November 17, 2015, responding to correspondence in the case record opposing approval of Petitioner's request. Exhs. 22 and 23. At its public meeting on December 2, 2015, the Board voted unanimously to grant said request to reopen the record and Mr. Daniels' letter of November 17, 2015 (Exh. 23) was entered into the record and considered by the Board.

**Evidence Presented**

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

1. The property was subdivided in 1983, contains 20,252 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached garage and parking/driveway area. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1988. Exh. 7.
2. Petitioner was cited by the Department of Permitting, Inspections and Enforcement, Inspections Division, with Building Violation Notice 34760-2015-0, dated May 18, 2015, requiring that the required

permit(s) be obtained for work done at the property, including but not limited to a parking pad in the front yard without the required permits and inspections, or remove the work. Exh. 5.

3. Petitioner would like to obtain a permit for a 9' x 19' driveway extension (Exh. 2(a)), but a variance is needed to obtain the permit. Since the driveway extension is located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 11.

4. The 9' x 19' driveway extension area for which a building permit is necessary is just a portion of the approximately 19' x 42' driveway extension/parking pad constructed by Petitioner to accommodate the parking of additional vehicles in front of the dwelling in parking spaces perpendicular to the driveway. Exhs. 2(a) and (b), 4(b) and (c), 9(A) through (F).

5. All but the 9' x 19' portion of the driveway extension/parking pad was constructed in the County right-of-way. Exhs. 2(a), 21. The width of the parking pad (19 feet) at the side of the driveway (approximately 20 feet) causes the total width of the driveway at the property line to be approximately 39 feet.<sup>1</sup> Exh. 2(a).

6. Babak Salimi testified that the subject property is rental property. Exh. 23. He explained that five or six students from the University of Maryland rent the house and park four or five cars at the property.

7. Mr. Salimi further testified that the additional parking pad was added because it is very difficult to drive up the hill when there is snow/ice on the driveway and the street is too narrow to park on the street.

8. Catherine Burch, 3408 Chatham Road, Adelphi, opposed the request. Exh. 15.

9. Jon Robinson and Carol Hurwitch, 2604 Cool Spring Road, Adelphi, also opposed the request. Exh. 17.

10. Cool Spring Terrace Civic Association did not comment on the request.

#### 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 does 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 narrowness, shallowness, shape, topography, or other extraordinary situation or condition specific to the subject property.

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<sup>1</sup> Section 23-139(a)(1) of the Prince George's County Code states that residential driveway entrances shall generally not be wider than 20 feet. Section I-34 of the Department of Public Works and Transportation Standards and Specifications states that

Maximum width for residential driveways is 20 feet at the right-of-way line. Transitions to serve wider onsite parking pads, carports, or garages shall not begin within 25 feet of the right-of-way line. (See Section III. Standard 200.09).

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.

3. The Board notes that County Code Section 23-139(a)(1) residential driveway entrances shall generally not be wider than 20 feet and Section I-34 of the Department of Public Works and Transportation Standards and Specifications states that the maximum width for residential driveways is 20 feet at the right-of-way line and transitions to serve wider onsite parking pads shall not begin within 25 feet of the right-of-way line.

4. The Board further notes that all but the 9' x 19' portion of the driveway extension/parking pad was constructed in the County right-of-way.

BE IT THEREFORE RESOLVED, unanimously, that a waiver of the parking area location requirement in order to validate and obtain a building permit for a 9' x 19' driveway extension in the front yard on the property located at Lot 1, Block B, Cool Spring Estates Subdivision, being 3311 Cool Spring Road, Adelphi, Prince George's County, Maryland, be and is 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.