

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-97-15 Jaime Rodriguez

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 28, 2015 .

CERTIFICATE OF SERVICE

This is to certify that on November 12, 2015 , 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

Petitioners: Jaime Rodriguez

Appeal No.: V-97-15

Subject Property: Lot 30, Block E, Defense Heights Subdivision, being 4707 68th Avenue, Hyattsville,
Prince George's County, Maryland

Witnesses: Freddys Molina, friend of Petitioner
Marcia Foster, neighbor

Heard: October 14, 2015; Decided: October 28, 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 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 2 feet from any side lot line 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 yard. A variance of 2 feet rear lot line setback for an accessory building and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1946, contains 6,700 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 3, 9 and 10. The existing dwelling was built in 1947. Exhs. 9 and 10.
2. The lot is narrow, being 50 feet wide. Exh. 2.
3. Petitioner was cited with a Notice of Violation, dated September 2, 2015, by the Department of Permitting, Inspections and Enforcement, requiring that Petitioner install the driveway and apron in accordance with the approved plan and specifications. Exh. 6.
4. Petitioner would like to obtain a (revised) building permit for a new 11' x 25' driveway, but variances are needed. Exh. 2. Since a portion of the driveway 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. 14.
5. In addition, the location of the shed near the rear lot line must be validated. A variance of 2 feet rear lot line setback for an accessory building was therefore requested. Exh. 14.
6. Petitioner testified that he received a building permit for the driveway.¹

¹ Petitioner enlarged the driveway beyond what was shown on his original plan submitted for the building permit which caused the violation notice. *Compare* Exhs. 2 and 23.

7. Marcia Foster, a neighbor across the street from the subject property, opposed the request. Exhs. 12 and 18 thru 20. She believes the driveway is dangerous because it was built on the side of the subject property that is sloped. She testified that on her side of the street all of the properties have driveways, but the land on that side is flat.

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 narrowness of the property, the slope of the land limiting the placement of the driveway, the location of a permanent shed needing validation to obtain a permit, 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 variances of 2 feet rear lot line setback for an accessory building and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for an 11' x 25' driveway in the front yard on the property located at Lot 30, Block E, Defense Heights Subdivision, being 4707 68th Avenue, 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.