

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-79-15 Juan and Elsa Cruz

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: August 19, 2015 .

**CERTIFICATE OF SERVICE**

This is to certify that on September 8, 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: Petitioners  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
Mark Maier, Spanish Language Interpreter  
Other Interested Parties

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

Petitioners: Juan and Elsa Cruz

Appeal No.: V-79-15

Subject Property: Lot 19, Block N, Chillum Terrace Subdivision, being 826 Cox Avenue, Hyattsville,  
Prince George's County, Maryland

Spanish Language Interpreter: Mark Maier

Witness: Clarence Shaw, President, Chillum-Ray Citizens Association

Heard and Decided: August 19, 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, 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 front yard at least 25 feet in depth and a side yard at least 9 feet in width, 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 construct a driveway in the front yard. Variances of 7 feet front yard depth, 3.5 feet side yard width and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1951, contains 5,880 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1953. Exhs. 6 and 7.
2. The side yards are extremely narrow, with a concrete porch over a basement entrance extending into the left side yard and a chimney that extends into the right side yard. Exhs. 2, 4 and 8(B) through (F).
3. Petitioners would like to construct a 15' x 22' driveway<sup>1</sup> on the left side of the property (Exhs. 2 and 4), but variances are needed to obtain a building permit. Since a portion of the driveway would be 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. 10.
4. Certain existing conditions on the property need to be validated and require variances. Since the covered front porch on the existing dwelling is located 18 feet from the front street line and the landing and steps on the side of the dwelling are located 5.5 feet from the side lot line, variances of 7 feet front yard depth and 3.5 feet side yard width were also requested. Exh. 10.

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<sup>1</sup> Petitioners submitted a revised site plan, reducing the size of the proposed driveway to 10' x 22'. Exh. 16.

5. Petitioner Juan Cruz testified that there are only five houses in the neighborhood without driveways. Photographs of other front yard driveways on their street were submitted. Exhs. 5(A) through (C).

6. He further stated that the covered front porch provides shelter and explained that landing and steps on the side of the house are needed for the door from the kitchen on that side.

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 house being built many years ago, the existing conditions on the property, the side yards being extremely narrow, the covered front porch providing shelter outdoors, the landing and steps on the side of the house accessing an exit from the house, 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 7 feet front yard depth, 3.5 feet side yard width and a waiver of the parking area location requirement in order to validate existing conditions and construct a 10' x 22' driveway in the front yard on the property located at Lot 19, Block N, Chillum Terrace Subdivision, being 826 Cox 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 revised site plan, Exhibit 16.

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.