

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-80-15 Cesar and Melvin Munoz

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
Lewisdale Citizens Association
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: Cesar and Melvin Munoz

Appeal No.: V-80-15

Subject Property: Lot 23, Block 24, Lewisdale Subdivision, being 2208 Hannon Street, 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; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings; 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 an existing condition and construct a driveway in the front yard. Variances of 1 foot front yard depth, 5.3% 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 1953, contains 5,775 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, two sheds and a detached deck. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1954. Exhs. 7 and 8.
2. The property is narrow, being only 55 feet wide, and the right side yard is about 8 feet wide. Exhs. 2 and 3.
3. Petitioners would like to construct a 20' x 32' driveway, but variances are needed in order to obtain a building permit. Since construction of the driveway causes the net lot coverage on the property to exceed the amount allowed (30%) and a portion of the driveway would be located in the area of the front yard prohibited by Section 27-120.01(c), a variance of 5.3% net lot coverage and a waiver of the parking area location requirement were requested.¹ Exhs. 12 and 13.

¹ A revised site plan was submitted. The driveway size was reduced to 10' x 30' and the variance for net lot coverage is unnecessary. Exhs. 21 and 22.

4. In addition, a variance is needed to validate the open porch on the front of the house because the porch is only 24 feet from the front street line. Exhs. 4(F) and (G). A variance of 1 foot front yard depth was therefore requested. Exh. 13.

5. Petitioner Cesar Munoz testified as to the existence of a tree, fire plug and electrical pole preventing the construction of a driveway on the left side of the property. Exhs. 4(B), (C) and (D). He also noted that the proposed driveway on the right side is required to be at least 3 feet away from his neighbor's property.²

7. He testified that driveways exist on other properties on his street, including one driveway that extends in front of the house on the property next door. Exhs. 5(A) through (G).

8. Lewisdale Citizens Association opposed the request. Exh. 19.

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 existence of a tree, fire plug and electrical pole preventing putting a driveway on the left side of the property, the proposed driveway on the right side being required to be set back at least 3 feet from the abutting property on the right side, 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 front yard depth and a waiver of the parking area location requirement in order to validate an existing condition and construct a 10' x 30' driveway in the front yard on the property located at Lot 23, Block 24, Lewisdale Subdivision, being 2208 Hannon Street, 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 21.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

² Prince George's County Code Section 23-139(i) and Note 30, "General Storm Drain and Paving Notes", Specifications and Standards for Roadways and Bridges (3/14/12 Rev.).

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.