

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-38-15 Edgardo Ayala and Rhina Carmona

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 5, 2015 .

**CERTIFICATE OF SERVICE**

This is to certify that on August 31, 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

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

Petitioners: Edgardo Ayala and Rhina Carmona

Appeal No.: V-38-15

Subject Property: Lot 5, Block 5, Lewisdale Subdivision, being 7005 24th Avenue, Hyattsville,  
Prince George's County, Maryland

Heard: June 24, 2015; Decided: August 5, 2015

Board Members Present and Voting: 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 7 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 4 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 1946, contains 6,558 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1947. Exhs. 7 and 8.
2. The property is relatively narrow, being only 50.50 feet wide. Exh. 2. The right side yard is extremely narrow due to a covered stoop on the side of the house. Exh. 2.
3. Petitioners would like to construct a 13' x 23' driveway<sup>1</sup>, a portion of which will be located in front of the dwelling. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioners' driveway will be located in this area of the front yard, a waiver of the parking area location requirement was requested. Exh. 11.
4. Variances are also needed to validate existing conditions on the property. Since the covered front stoop is only 21 feet from the front street line and a covered side stoop is only 3.5 feet from the side lot line, variances of 4 feet front yard depth and 3.5 feet side yard width were also requested. Exh. 11.
5. Petitioner Edgardo Ayala testified that most of his neighbors have driveways. See Exhs. 9(B) through (D).
6. The left side yard is 9 feet wide, but County regulations require that a driveway apron have a minimum width of 10 feet and an apron flare not closer than 3.5 feet from the nearest abutting property line.<sup>2</sup>

<sup>1</sup> Petitioners revised the site plan, reducing the size of the driveway to 10' x 23'. Exh. 18.

<sup>2</sup> 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.). See Exhs. 19, 20 and 21.

7. Lewisdale Citizens Association opposed the request for variances. Exh. 15.

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, there being a covered stoop in the right side yard, the narrowness of the left side yard, the need to locate a driveway at least 3.5 feet from the nearest abutting property line, 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, by majority vote, Chairperson Mack being absent, that variances of 4 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 23' driveway in the front yard on the property located at Lot 5, Block 5, Lewisdale Subdivision, being 7005 24th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 18.

BOARD OF ZONING APPEALS

By: (Original Signed)  
Albert C. Scott, Vice Chairman

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.