

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-72-15 Pedro & Faustina Garcia

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 2, 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
DPIE/Inspections Division
Office of Law
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: Pedro and Faustina Garcia

Appeal No.: V-72-15

Subject Property: Lot 7, Block B, Springbrook Terrace Subdivision, being 5404 55th Place, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter: Mark Maier

Witness: Melva Garcia, Petitioners' daughter

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(i)(Table VIII), 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. Petitioners propose to validate existing conditions and obtain a building permit for a driveway in the front yard. Variances of 5.15 feet front yard, 1.15 feet side lot line setback for an accessory building and a waiver of the parking area location requirement were initially requested.

Evidence Presented

1. The property was subdivided in 1939, contains 7,260 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, 7 and 8. The existing dwelling was built in 1951. Exhs. 7 and 8.

2. The angle of the property's rear lot line creates a rear yard with an irregular shape. Exh. 2.

3. On August 30, 2015, Petitioners were cited with Building Violation Notice 27054-12-01 by the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that they obtain a permit for the carport on the left side of the house or remove it. Exh. 6. Petitioners site plan indicates that the carport has been removed. Exh. 2.

4. Petitioners would like to validate and obtain a building permit for a 19.75' x 24.65'/11.45' x 30.58' driveway, but variances are needed to obtain the permit. 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. 12.

5. One existing condition on the property must also be validated with a variance. Since the covered front porch is located 19.85 feet from the front street line, a variance of 5.15 feet front yard depth was requested. Exh. 12.

6. The existing shed is located .85 feet from the side lot line for the dwelling which requires a 1.15 feet side lot line setback for the accessory building. However, a revised site plan was submitted indicating that the shed in the rear yard will be moved so that it is 2 feet from the side lot line. Exh. 18.

7. Melva Garcia testified that the previous driveway was replaced with a larger driveway that added a portion on the left side. Exhs. 4(A) through (C). She also testified the carport was removed from the property.

8. Petitioner Pedro Garcia testified that the awning over the front door pre-existed their ownership and the wood shed would be moved (so that a variance would no longer be necessary).

9. Melva Garcia testified that the awning keeps rain off of the front door. Exhs. 4(A) and (B).

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 existing conditions on the property, variances being needed to validate existing conditions on the property in order to obtain a building permit, the existing driveway having been built to replace a smaller driveway, a setback variance being needed to validate the preexisting awning that keeps water off the front door, 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 a variance of 5.15 feet front yard depth and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for a 19.75' x 24.65'/11.45' x 30.58' driveway in the front yard on the property located at Lot 7, Block B, Springbrook Terrace Subdivision, being 5404 55th Place, Riverdale, 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 18.

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.