

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-90-15 Denis D'Rozario and Ratna Rozario

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: September 9, 2015 .

CERTIFICATE OF SERVICE

This is to certify that on September 24, 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

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

Petitioners: Denis D'Rozario and Ratna Rozario

Appeal No.: V-90-15

Subject Property: Lot 11, Block 9, College Heights Estates Subdivision, being 7213 Adelphi Road,
Hyattsville, Prince George's County, Maryland

Heard and Decided: September 9, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate an existing condition and replace an existing driveway. A variance of 12.7% net lot coverage is requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1955, contains 10,490 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, detached carport and shed. Exhibits ("Exhs.") 2, 3, 8 and 9. The existing dwelling was built in 1953. Exhs. 8 and 9.
2. The property fronts on Adelphi Road, a divided four-lane road. Exhs. 2, 10(A) and (B).
3. Petitioner Ratna Rozario operates a family day care at the property during the daytime for up to eight children. Exhs. 5 and 6.
4. Petitioners would like to replace the existing driveway, but a variance is required before a building permit may be obtained. Since the maximum allowed net lot coverage (30%) is exceeded by existing development on the property, a variance of 12.7% (1,327 square feet) net lot coverage was requested. Exhs. 12 and 13.
5. Petitioner Denis D'Rozario testified that they have owned the property, with the driveway, for 15 years. He stated that there are cracks in the driveway next to the house (Exhs. 4(A) through (D), and water is getting into the basement.
6. Petitioner Ratna Rozario testified that the entire length of the driveway is cracked (Exhs. 4(A) through (D)), she has operated a day care at the property for 15 years, and the driveway needs repair. She testified that there are other long driveways in the neighborhood.
7. A parent wrote that his children have been cared for at Petitioners' day care and expressed support for Petitioners' request. He explained that dropping off and picking up children curbside on Adelphi Road is a dangerous alternative to pulling into Petitioners' driveway. He stated that the existing driveway area is needed because a curve in Adelphi Road limits sight distance and using the wider portion of the driveway at the rear to turn around means that one does not have to back out onto Adelphi Road. 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the driveway existing in its current size for at least 15 years, the entire length of the driveway having cracks, water getting into the dwelling's basement, a variance to validate existing net lot coverage being needed to obtain a permit to replace the driveway, the property fronting on a busy thoroughfare (Adelphi Road), there being a curve in Adelphi Road that limits sight distance for drivers, the current size of the driveway allowing children to be safely dropped off and picked up from the day care operating on the property, 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, Mr. Scott absent, that a variance of 12.7% net lot coverage in order to validate an existing condition and replace an existing driveway on the property located at Lot 11, Block 9, College Heights Estates Subdivision, being 7213 Adelphi Road, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance 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.