

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-52-15 Mark and Vera-Marie Johnson

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: July 7, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on July 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  
Woodmore North Homeowners Association, Inc.

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

Petitioners: Mark and Vera-Marie Johnson

Appeal No.: V-52-15

Subject Property: Lot 5, Block C, Westwood Subdivision, being 12802 Woodmore North Boulevard,  
Bowie, Prince George's County, Maryland

Heard: June 24, 2015; Decided: July 7, 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that not more than 25% of the side yard shall be covered by accessory buildings and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to construct a detached one-car garage in the side yard. A variance of 1.4% side yard coverage and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1999, contains 30,005 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 11 and 12. The existing dwelling was built in 2010. Exhs. 11 and 12.
2. The subject lot adjoins a corner lot where the existing dwelling faces the corner. Exhs. 13(B), (D) and (E).
3. Petitioners would like to construct a detached 18' x 26' one-car garage in the side yard at the end of the existing driveway (Exhs. 2, 5(A) through (D)), but the following variances must be obtained before obtaining a building permit. Since construction of the proposed garage would cause the allowed amount of side yard coverage to be exceeded and the garage would not be located in the rear yard, a variance of 1.4% side yard coverage and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 15 and 16.
4. Petitioner Mark Johnson testified that when he moved to the property in December 2014 he conveyed to the Woodmore North Homeowners Association, Inc. ("Association") his interest in building a 2-car garage. He explained that the Association requires a building permit before it reviews projects under its architectural approval process and he submitted a project application to the Association in February 2015 with a Prince George's County ("County") approved building permit and site plan. Exh. 7. He stated that the application was denied by the Association because of the proposed location of the garage in the rear yard as shown on the site plan. The Association maintained that garages could not be built in the rear yard of

properties in order to maintain the aesthetics, character and original architectural design of the community. Exh. 8. He further explained that he appealed the Association's denial, subsequently modified his building plans by proposing three different garage locations and the only site plan deemed acceptable by the Association located the proposed garage in the side yard (which requires the requested variance). Exhs. 2, 9 and 25. *See also* Exh. 24.

5. Mr. Johnson believed the requested variance and waiver do not impair the purpose and integrity of the general plan or the master plan. He pointed out that his lot is significantly narrower than similarly situated neighborhood lots with multiple car garages and his lot has less available side lot space than other homeowners whose lots are wider and less deep. Exhs. 6(A) through (I), 13(A). He stated that the proposed development underscored his compromise in downsizing the project. He submitted photographs of neighborhood properties with similarly located detached garages (mostly 2-car) and second garages attached by a breezeway. Exhs. 6(A) through (I). *See also* Exh. 24.

6. The Architectural Review Committee of Woodmore North Homeowners Association, Inc. approved Petitioner's request. Exh. 25.

7. The Subdivision and Application Sections of the Maryland-National Capital Park and Planning Commission reviewed the request for the subject property, which is located within Westwood Subdivision (VJ 187 @ 18 – Lot 5, Block C), and determined that Preliminary Plan of Subdivision 4-95057 poses no impediment to the Board's ability to hear the variance request and that no other plans of development are applicable and/or have impact on the review of the request. Exh. 26.

#### 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 property being significantly narrower than other lots with multiple car garages, the property having less available side yard space than other wider and deeper lots, the homeowners association rejecting initial plans to construct the proposed detached garage in the rear yard to maintain the aesthetics, character and original architectural design of the community, the homeowners association only accepting a plan to construct a garage in the side yard in harmony with the community design, the Association-accepted plan requiring variances, the proposed structure to be built at the end of the existing driveway, 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, in a telephone poll of the members of the Board taken by the Board's administrator, that a variance of variance of 1.4% side yard coverage and a waiver of the rear yard location requirement for an accessory building in order to construct a detached 18' x 26' one-car

garage in the side yard on the property located at Lot 5, Block C, Westwood Subdivision, being 12802 Woodmore North Boulevard, Bowie, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plans, Exhibits 3(a) and (b).

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.