

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-35-15 Adeyemi Ogunsola

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: June 10, 2015.

CERTIFICATE OF SERVICE

This is to certify that on June 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Hyattsville
Other Interested Parties

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

Petitioner: Adeyemi Ogunsola

Appeal No.: V-35-15

Subject Property: Lot 26, Subdivision of Tract of Land in Hyattsville Subdivision, being 4509 Buchanan Street, Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

Witness: Bobby Awosika

Heard: May 13, 2015; Decided: June 10, 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, Petitioner requests 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; 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. Petitioner proposes to validate existing conditions and obtain a building permit to repair an existing driveway. Variances of 8 feet front yard depth, 2 feet side yard width and 12.6% net lot coverage were requested.

Evidence Presented

1. The property was subdivided in 1887, contains 8,737 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and detached garage. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1899. Exhs. 6 and 7.
2. The property is located within both the Gateway Arts District Development and Chesapeake Bay Critical Area Overlay Zones. Exh. 7.
3. The property is a narrow lot, being only 50 feet wide. Exh. 2. The existing house is located towards the left side of the lot. Exh. 2.
4. Petitioner would like to repair the existing 11' x 128' driveway leading to the detached garage in the rear yard, but variances are needed to obtain a permit. Since the allowed amount of net lot coverage is exceeded by existing development on the property, a variance of 12.6% net lot coverage was requested. Exhs. 10 and 11.
5. Variances of 8 feet front yard depth and 2 feet side yard width to validate the location of the dwelling, and a variance of 1 foot rear lot line setback to validate the location of the detached garage were also requested.¹ Exh. 11.
6. Petitioner testified that in May 2013 when he purchased the property the driveway was in very poor condition. He explained that it is dangerous for his small children to play near the driveway until it is

¹ It was determined that pursuant to Zoning Ordinance Section 27-118(c), no setback variances are needed because of the age of the structures.

fixed. He further explained that his family has three cars, but because of the condition of the driveway he cannot park on the driveway.

7. The City of Hyattsville supported Petitioner's request with the condition that Petitioner utilize "green" building materials, such as permeable pavers, for the driveway construction or consider "runners" with grass in between. Exh. 23.

8. The Subdivision Section of The Maryland-National Capital Park and Planning Commission commented that Exhibit 2 correctly reflects the lot size and 30-foot building restriction line (BRL) from Buchanan Street as shown on the record plat, that Exhibit 2 demonstrates that the existing covered porch encroaches into the 30-foot BRL, no proposed buildings encroach on this BRL, and that although the existing porch infringes, it is an existing condition and no plat to remove the BRL is required. Exh. 19.

9. The Historic Preservation Section of The Maryland-National Capital Park and Planning Commission commented that the property is located within the National Register Historic District 68-10 (Hyattsville) and within 500 feet of Historic Site 68-077 (Dorr House) and that the subject request has no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 17.

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 property being subdivided in 1887, the narrowness of the property, the house being built in 1899, the preexisting location of the house and garage on the property, the need for off-street parking, the existing driveway having dangerously deteriorated and needing to be replaced, there being an existing detached garage for which driveway access is needed, 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Mack absent, that a variance of 12.6% net lot coverage in order to obtain a building permit to repair an existing 11' x 128' driveway on the property located at Lot 26, Subdivision of Tract of Land in Hyattsville Subdivision, being 4509 Buchanan Street, 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.