

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-89-14 Carlos Vivar & Veronica Garci

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: February 11, 2015.

CERTIFICATE OF SERVICE

This is to certify that on February 25, 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

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

Petitioners: Carlos Vivar and Veronica Garci

Appeal No.: V-89-14

Subject Property: Lot 42, Block M, Eastpines Subdivision, being 5624 67th Avenue, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard: January 28, 2015; Decided: February 11, 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 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 and obtain a building permit for a deck and driveway area. A variance of 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 21,292 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 4, 8, 9 and 24. The existing dwelling was built in 1948. Exhs. 8 and 9.

2. The property is a through lot, backing up to the Baltimore-Washington Parkway. Exhs. 4 and 10(A), (G) and (H). The lot is extremely narrow at the front street line (44.98 feet wide) and widens from front to rear. Exhs. 4 and 24. The property slopes in the rear. Exhs. 10(C), (D) and (E).

3. Building Violation Notice 34623-2014, dated August 21, 2014, was issued to Petitioners by the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that the required permit(s) be obtained for work done on the property, including but not limited to a deck and driveway extension, or remove it. Exh. 6.

4. Petitioners would like to obtain a building permit for a 6'10" x 29'7" x 52' deck which extends along the left side and rear of the existing dwelling (Exh. 24), but a variance is needed. Since the deck is located only 2 feet from the left side lot line at the closest point, a variance of 5 feet side yard width was requested. Exhs. 13 and 20.

5. Petitioners would also like to obtain a permit for the concrete driveway extension across the front yard, but an additional variance is needed. Since some existing gravel driveway area and most of the new concrete driveway area 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 also requested. Exhs. 13 and 20.

6. Petitioner Carlos Vivar testified that they have lived at the property since 2001 and put in the new concrete in maybe 2005. Exhs. 5((A) through (C). He further testified that he built the deck at the same time he built the two-story addition on the rear of the house around 2003. Exhs. 5(D) through (H).

7. Mr. Vivar stated that his front door is on the side of the house like all the other houses in the area and there is a fence on the side where the deck is too close. Exhs. 5(C) and (E) and 24. He explained that the front yard persists in becoming muddy although he has tried to plant grass there. He stated that the new concrete extension area provides a place for his children to play and he will not use that area for parking. He agreed to put in anchored planters to divide the extension area and the old concrete area to prevent vehicular access to most of the new concrete.¹

8. He testified that if the rear yard was flat he would have placed the deck there. See Exhs. 10(C), (D) and (E).

9. He further testified that runoff water flows from left to right across the property and then proceeds to the rear area.

10. The Historic Preservation Section of the Maryland-National Capital Park and Planning Commission commented that the subject property is adjacent to Historic Site 69-026 (Baltimore-Washington Parkway) and the variance request has no effect on Historic Sites or Historic Resources. 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the narrowness of the property toward the front of the lot, the property being a through lot, the rear yard being sloped, the entrance to the house being on the side where the deck extends, Petitioners installing anchored planters to prevent driving/parking on most of the new concrete in front of the house, 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 feet side yard width and a waiver of the parking area location requirement in order to validate and obtain a building permit for a 6'10" x 29'7" x 52' deck and driveway area in the front yard on the property located at Lot 42, Block M, Eastpines Subdivision, being 5624 67th Avenue, Riverdale, Prince George's County, Maryland, be and are hereby

¹ A revised site plan was submitted (Exh. 24) which indicates that three 18-inch concrete planters will be installed to prevent driving/parking in most of the area where the new concrete was placed. Exhs. 25(A) through (D). A portion of the new concrete which is outside the barrier is in the area prohibited by Section 27-120.01(c) and a waiver of the parking area requirement therefore is necessary.

APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 24, and the approved elevation plan, Exhibit 3.

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.