

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-82-14 Barbara & Carroll Shaw

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: November 19, 2014.

CERTIFICATE OF SERVICE

This is to certify that on December 17, 2014, 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: Barbara and Carroll Shaw

Appeal No.: V-82-14

Subject Property: Lot 2, Block D, South-Lawn Subdivision, being 6924 Elkins Avenue, Oxon Hill,
Prince George's County, Maryland

Witnesses: Minnie Bailey, Five Star Concrete Construction Inc.

Aiko Elmond, neighbor

Alfred Elmond, neighbor

Heard and Decided: November 19, 2014

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), which prescribes that each lot shall have a side yard at least 8 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, 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 an existing condition and construct a driveway in the front yard. Variances of 5.55 feet side yard width and 3.5% net lot coverage and a waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1953, contains 6,077 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and two sheds. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1955. Exhs. 6 and 7.
2. The rear lot line is angled, creating a rear yard that is triangular in shape. Exh. 2.
3. Petitioners would like to construct an 18' x 21' driveway, but variances are needed to obtain a building permit. Since part of the driveway would be located in the area of the front yard prohibited by Section 27-120.01(c) and construction of the driveway would cause the allowed amount of net lot coverage to be exceeded, a waiver of the parking area location requirement and a variance of 3.5% net lot coverage were requested. Exhs. 10 and 11.
4. An existing condition must also be validated to obtain the building permit. Since a wood deck extends to within 2.45 feet of the left side lot line, a variance of 5.55 feet side yard width was requested to validate this existing condition. Exh. 11.

5. Petitioner Barbara Shaw testified that a high school is located at the end of their street and the school buses pass through their street.

6. She further stated that there is insufficient room to locate the driveway on either side of the house and a gas line exists on the left side.

7. Aiko Elmond, a neighbor on an adjoining lot, testified that she is concerned about noise because her bedroom is on that side of the house where the driveway is located.

8. Alfred Elmond, testified that the proposed driveway's building plan "looks okay" to him.

9. Minnie Bailey, Petitioners' contractor, testified that the driveway would accommodate two cars and be located at least 3.5 feet from the property line. See also Exh. 2.

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, there being insufficient space in the side yards for a driveway, there being a gas line in the left side yard, the street on which the property is located leading to a nearby high school and heavy travel of school buses, 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 variances of 5.55 feet side yard width and 3.5% net lot coverage and a waiver of the parking area location requirement in order to validate an existing condition and construct an 18' x 21' driveway on the property located at Lot 2, Block D, South-Lawn Subdivision, being 6924 Elkins Avenue, Oxon Hill, 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.

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.