

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-61-14 Manuel Escobar

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 17, 2014.

CERTIFICATE OF SERVICE

This is to certify that on November 19, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioner: Manuel Escobar

Appeal No.: V-61-14

Subject Property: Lot 27, Block E, Kenmoor Subdivision, being 8114 Manson Street, Hyattsville,
Prince George's County, Maryland

Spanish Language Interpreter: Edwin Cisneros

Witnesses: Mary Coates, neighbor & member of Kenmoor Civic Association

Sylvia (Yates) Mayfield, neighbor

Larry Frelow, neighbor & member of Kenmoor Civic Association

La Verne Ross, neighbor

Bean Williams, neighbor & member of Kenmoor Civic Association

Margaret Simmons, neighbor & President of Kenmoor Civic Association

Heard and Decided: September 17, 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 a variance 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 a variance 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. Petitioner proposes to construct a driveway extension. A variance of 12.6% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1961, contains 8,261 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 3, 5 and 6. The existing single-family dwelling was built in 1962. Exhs. 5 and 6.

2. The property is located between two corner lots on which the houses face the corners. The lot is regular in its shape except in the extreme rear of the property where the lot lines angle inwards to a point. Exhs. 2, 3 and 7(A) through (E).

3. Petitioner would like to construct a 10' x 63' extension to the existing driveway at the rear of the property, but a variance is needed to obtain a building permit. Since the allowed amount of net lot coverage is already exceeded by existing development on the property and construction of the additional driveway area would cause further overage, a variance of 12.6% net lot coverage was requested to validate the existing coverage and obtain a permit to add the driveway extension. Exhs. 9 and 10.

4. Petitioner testified that the current concrete parking area pre-existed his ownership. Exhs. 2 and 4(A). He acknowledged that he has begun digging out the sloped area behind the existing driveway where he wants to expand the driveway area. Exhs. 4(B), (E) and (F). He explained that the proposed driveway

area would extend across almost the entire width of the property from side property line to side property line, leaving about a foot of unpaved area on each side. Exh. 2. Petitioner testified that there is insufficient space to turn around a car or move a car without having to move out other cars. He stated that five vehicles are parked on the driveway, three of which are used daily, and one could be parked on the proposed driveway extension. He explained that he and his brother each had two cars when he moved to the property and he has purchased a truck since then.

5. Petitioner further testified that he does not want to park his vehicles on the street because of the speed of the traffic and the danger of collisions.

6. Margaret Simmons testified that Kenmoor Civic Association is opposed to Petitioner's request. She explained that there are 93 homes and four streets in Kenmoor, there is a serious problem with runoff water in Kenmoor and almost every house has at least one sump pump. She stated that the driveway on Petitioner's property has already been extended from the original driveway and if Petitioner puts in more cement it will cause additional runoff to one side.

8. Sylvia Mayfield testified that her adjoining property sits downhill from Petitioner's. She testified that Petitioner extended the driveway around the rear of his property and placed a cinderblock barrier next to the fence, but water still runs off his property onto her property. She explained that to address water runoff, the previous owner of the subject property installed piping which seems to have been removed.

9. Petitioner testified that he neither extended the driveway nor removed any pipes, but he did put in the barrier because he observed dirt traveling down onto Ms. Mayfield's property. He stated that he receives water runoff from other properties too.

10. Larry Frelow, a neighbor, opposed the request.

11. La Verne Ross, whose property is across the street from Petitioner's, opposed the request and stated that she has four cars. She stated that there is always street parking available. She stated that Petitioner should not be allowed to add to the community's runoff water problem that currently exists.

12. Bean Williams, a neighbor, stated that if Petitioner extends his driveway, it will not look "good" in the neighborhood.

13. Mary Coates, a neighbor, opposed the request. She read a letter into the record from Robert Clark, a neighbor and former vice president of Kenmoor Civic Association, who also opposed the request, stating that an increase in the amount of cement on Petitioner's property would decrease property values, increase rainwater runoff, increase neighborhood pollution and diminish community aesthetics. Exh. 16.

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 does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that no evidence of any exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property.

2. The various concerns raised by Petitioner do not appear to be unique to the owner and subject property. In addition, because the conditions of the property do not present any extraordinary situation or condition, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 12.6% net lot coverage in order to construct a 10' x 63' extension to the existing driveway on the property located at Lot 27, Block E, Kenmoor Subdivision, being 8114 Manson Street, Hyattsville, Prince George's County, Maryland, be and is hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.