

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-60-14 Franklin Ruiz

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: October 8, 2014.

CERTIFICATE OF SERVICE

This is to certify that on November 3, 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
DPIE/Inspections Division
Lewisdale Citizens Association

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

Petitioner: Franklin Ruiz

Appeal No.: V-60-14

Subject Property: Lot 7, Block 30, Lewisdale Subdivision, being 7214 23rd Avenue, Hyattsville,
Prince George's County, Maryland

Heard: September 17, 2014; Decided: October 8, 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, Petitioner requests that the Board approve variances 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, 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. Petitioner proposes to validate and obtain a building permit for a new driveway extension. A variance of 3.1% 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 1946, contains 5,500 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, 8 and 9. The existing single-family dwelling was built in 1950. Exhs. 8 and 9.
2. Based on a complaint an inspection by the County was conducted of the subject property on May 23, 2014 at which time it was discovered that the driveway had been extended without a permit. Exh. 7. Building Violation Notice 11059-14-01, dated July 11, 2014, was issued to Petitioner requiring him to either obtain a building permit for the extended driveway or remove it. Exh. 5.
3. Petitioner would like to validate the existing conditions on the property in order to obtain a building permit for the newly built 10.4' x 28.3' driveway extension located in front of the existing dwelling. Since the driveway extension is located in an area of the front yard prohibited by Section 27-120.01(c) and construction of the extension caused the allowable amount of net lot coverage to be exceeded, a waiver of the parking area location requirement and a variance of 3.1% net lot coverage were requested, respectively. Exhs. 12 and 13.
4. Petitioner testified that 23rd Avenue has a lot of traffic, one of his three vehicles was hit in the bumper and more off street parking area on his property was desired.
5. Lewisdale Citizens Association opposed the request. 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 variances do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioner's lot has no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition on the subject property.
2. Because the conditions of the property are ordinary, 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 3.1% net lot coverage and a waiver of the parking area location requirement in order to validate and obtain a building permit for a new 10.4' x 28.3' driveway extension on the property located at Lot 7, Block 30, Lewisdale Subdivision, being 7214 23rd Avenue, Hyattsville, Prince George's County, Maryland, be and are 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.