

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-89-13 Mehret Y. Hadera

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 23, 2013.

CERTIFICATE OF SERVICE

This is to certify that on November 25, 2013, 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: Mehret Y. Hadera

Appeal No.: V-89-13

Subject Property: Lot 32, Block 1, Riggs Manor Subdivision, being 2423 Sheridan Street, Hyattsville,
Prince George's County, Maryland

Witness: Arista Woldeab, Petitioner's sister-in-law
Jeff Gu, neighbor

Heard: October 9, 2103; Decided: October 23, 2013

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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), which prescribes that each lot shall have a side yard at least 9 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; 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; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and 2 feet from any side lot line. Petitioner proposes to validate existing conditions and construct a driveway in the front yard of a semi-detached single-family dwelling. Variances of 7 feet side yard width, 14.9% net lot coverage, a waiver of the parking area location requirement for a driveway in the front yard, and variances of 59.4 feet front street line and 1.5 feet side lot line setbacks for an accessory building were requested.

Evidence Presented

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

1. The property was subdivided in 1951, contains 4,180 square feet, is zoned R-35 (One-Family Semi-Detached Residential) and is improved with a semi-detached single-family dwelling and shed. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing single-family dwelling was built in 1952. Exhs. 6 and 7.
2. The property is a through lot with two legal front yards and no rear yard. The property fronts on Sheridan Street and East West Highway, with the house facing Sheridan Street. The lot is long and narrow, being 110 feet deep but only 38 feet wide. Exh. 2.
3. Petitioner would like to construct a 10' x 36' driveway in front of the existing dwelling (Exh. 2), but variances are needed to obtain a building permit. Since the driveway would be located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 11.

4. Since the allowed amount of net lot coverage (30%) has already been exceeded by existing development on the property and construction of the driveway would be additional lot coverage, a variance of 14.9% net lot coverage was also requested.¹ Exhs. 10 and 11.

5. In addition, the locations of the existing porch on the side of the dwelling and a shed in the rear yard require validation. Since the porch is located only 2 feet from the side lot line, and the shed is located behind the dwelling but only .5 foot from the front street line of East West Highway and .5 foot from the side lot line, variances of 7 feet side yard width, and 59.4 feet front street line setback and 1.5 feet side lot line setback for an accessory building were also requested to validate these existing conditions. Exh. 11.

6. Arista Woldeab testified that Petitioner's house is one half of a duplex and the proposed driveway would be located on the right side of the front yard which is the side next to the other house in the duplex.

7. Petitioner testified that the deck and shed pre-existed her ownership of the property. She stated that she needs a driveway because of the unavailability of on-street parking and need for safety. She explained that the proposed driveway will be built on the right side of the front yard because of the location of a tree and utility pole on the other side of the front yard. Exhs. 4(A), (D) and (F).

8. Jeff Wu, owner of the other half of the duplex, acknowledges the problematic location of the tree and is more willing to accept the proposed location of the driveway if the driveway were shorter and did not extend beyond the front wall of Petitioner's house.

9. Petitioner revised her site plan to shorten the driveway by ten feet so that the driveway will not extend beyond the front wall of the house. 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, the property being a through lot with two front yards and no legal rear yard, the proposed location of the driveway being necessary because a tree and utility pole are located on the left side of the front yard, the shortage of on-street parking in the neighborhood, off-street parking providing Petitioner safer access to her dwelling, 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, Mr. Scott abstaining, that variances of 7 feet side yard width, 12.5% net lot coverage, a waiver of the parking area location requirement for a driveway in the front yard, and variances of 59.4 feet front street line and 1.5 feet side lot line setbacks for an accessory

¹ Petitioner's revision of the site plan to indicate that a 10' x 26' driveway was proposed reduced the amount of the variance requested to 12.5% net lot coverage. Exhs. 17 and 18.

building in order to validate existing conditions and construct a 10' x 36' driveway in the front yard of a semi-detached single-family dwelling on the property located at Lot 32, Block 1, Riggs Manor Subdivision, being 2423 Sheridan Street, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 17.

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.