

CORRECTED

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-80-13 Stuver Family Trust/Henry & Susan Stuver

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 11, 2013.

CERTIFICATE OF SERVICE

This is to certify that on October 15, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Glenn Dale Citizens Association

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

Petitioners: Stuvén Family Trust/Henry & Susan Stuvén

Appeal No.: V-80-13

Subject Property: Lots 48 thru 52, Block 7, Glenndale Heights Subdivision, being 10105 Dubarry Street,
Glenn Dale, Prince George's County, Maryland

Witness: Andrew Leinemann, Lanham Construction Co.

Heard and Decided: September 11, 2013

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 rear yard at least 20 feet in depth/width; Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioners propose to validate existing conditions and replace an existing driveway. Variances of 1 foot rear yard depth/width, 10.7% net lot coverage, and 2 feet side and rear lot line setbacks for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1913, contains 10,000 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 3, 4, 8 and 9. The existing single-family dwelling was built in 1960. Exhs. 8 and 9.
2. Petitioners would like to replace an existing 1,386 square foot concrete driveway, but variances are needed to obtain a building permit. Since an attached garage is located only 19 feet from the rear lot line and a shed is located at the side lot line and over the rear lot line, variances of 1 foot rear yard depth/width and 2 feet side and rear lot line setbacks for an accessory building were requested. In addition, since the allowed amount of net lot coverage is exceeded by current development on the property, including the driveway, a variance of 10.7% net lot coverage was also requested. Exhs. 13 and 14.
3. Petitioners stated the following: The property slopes from the back yard to the street, dropping approximately 1-6 feet. There is a retaining wall between the subject property and the neighboring property, which drops more sharply. The wall starts about 3 feet above the neighboring property and tapers down to street level. The current configuration of Petitioners' driveway is concrete extending to the retaining wall. If this configuration is changed, the drainage down the hill could be changed and become a problem. The

adjoining neighbor supports the variance to keep the two properties in the same relative configuration. Mr. Stuvan has suffered multiple strokes and is confined to a wheelchair 80% of the time. He is unstable when walking and requires a firm, flat surface to traverse from the car to the house. The driveway is approximately 35 years old and damaged due to the 2011 earthquake which created a very uneven driveway surface that must be repaired for the safety of Mr. Stuvan. If the driveway were only single-car width, there would be insufficient driveway area to safely transfer Mr. Stuvan from the car into his wheelchair. The driveway has been in its current configuration since at least 1979. Exh. 2.

4. Petitioners' contractor, Andrew Leinemann, testified that when applying for a building permit Petitioner was informed that the proposed driveway was too large and required a variance.

5. Petitioner Susan Stuvan testified that the driveway has many cracks and started sinking after the 2011 earthquake. She stated that the same configuration for the driveway will be retained. Exhs. 5(A) and (B), 11(A) and (B).

6. Ms. Stuvan further testified that the garage and a shed existed when the subject property was purchased in 1981 and the shed was replaced (in the same location) when it blew over about 10 years ago. She stated that the shed is used for storage.

7. Mr. Leinemann stated that the driveway slopes down toward the street where water flows to a culvert. Exhs. 5(A) and (B).

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 preexisting structures not meeting current setback requirements and the maximum net lot coverage allowance, the driveway being in poor and unsafe condition, a firm and smooth driveway being needed for Mr. Stuvan to use a wheelchair, the proposed width of the driveway being needed for Mr. Stuvan to safely access a parked vehicle with a wheelchair, 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 1 foot rear yard depth/width, 10.7% net lot coverage, and 2 feet side and rear lot line setbacks for an accessory building in order to validate existing conditions and replace an existing 1,386 square foot concrete driveway on the property located at Lots 48 thru 52, Block 7, Glenndale Heights Subdivision, being 10105 Dubarry Street, Glenn

Dale, 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 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.