

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-41-13 Marie Kuitchoua

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: June 19, 2013.

CERTIFICATE OF SERVICE

This is to certify that on July 30, 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
Eastpines Citizens Association
Other Interested Parties

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

Petitioner: Marie Kuitchoua (Volcy)

Appeal No.: V-41-13

Subject Property: Lot 12, Block D, Eastpines Subdivision, being 5812 63rd Avenue, Riverdale,
Prince George's County, Maryland

Witness: James Han

Heard and Decided: June 19, 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 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 27-120.01(c) of the Zoning Ordinance, 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 construct a driveway in the front yard. A waiver of the parking area location requirement is requested.

Evidence Presented

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

1. The property was subdivided in 1941, contains 7,686 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits 3-4, 7-8. The existing single-family dwelling was built in 1942. Exhs. 7-8.
2. The property is an odd shaped lot located on a curve in the street. The property is narrow at the front street line, widens from front to rear and the side yards on both sides of the existing house are narrow. Exhs. 3-4.
3. Petitioner would like to construct a 15' x 25'¹/₂' x 8' driveway, but a variance is needed to obtain a building permit. Since a portion of 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. Exhs. 1, 10.
4. Petitioner stated that on her side of 63rd Avenue, her house is one of three houses that do not have a driveway and that all the houses have driveways on the opposite side of the street. She explained that the house is located on a hill, street parking is often difficult and there is no sidewalk making it dangerous to traverse with two small children and heavy things to carry. Exh. 2.
5. Petitioner testified that her house is located on the bend in the horseshoe shaped street, which is narrow in some places, where there is limited space for parking.
6. James Han, Petitioner's contractor, testified that there will be a garden between the driveway and the front wall of the house.

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request with regard to the description of the property contained on the record plat of subdivision for Section 1 of Eastpines Subdivision (BB 8 @ 75) – Lot 12, Block D). The Subdivision Section stated that the 25-foot building restriction line shown on the plat is applicable to buildings and not ground level paved surfaces and driveways. 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 complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the narrowness of the front of the lot, the narrowness of the side yards on both sides of the existing house, the property being located on a curve in the street, the street being narrow with limited availability of on-street parking, Petitioner's house being located on a hill, the proposed driveway providing security for Petitioner's small children, 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, unanimously, that a waiver of the parking area location requirement in order to construct a driveway in the front yard on the property located at Lot 12, Block D, Eastpines Subdivision, being 5812 63rd Avenue, Riverdale, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance 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.