



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-42-23 Diego Cuellar Cornejo and Edwin E. Valle Cuellar

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 13, 2023.

CERTIFICATE OF SERVICE

This is to certify that on October 18, 2023, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script, reading "Barbara J Stone", is written over a horizontal line.

Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioners: Diego Cuellar Cornejo and Edwin E. Valle Cuellar

Appeal No.: V-42-23

Subject Property: Lot 5, Block 12, Woodlawn Subdivision, being 6950 Greenvale Parkway, Hyattsville,
Prince George's County, Maryland

Witness: Wyrton Carlos Morales, Contractor

Heard: July 26, 2023; Decided: September 13, 2023

Board Members Present and Voting: Carl Isler, Acting Vice Chair

Renee Alston, Member

Teia Hill, Member

Board Member Absent:

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 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 27-4202(e)(3) prescribes that each lot shall have a side yard at least 8 feet in width. Section 27-11002 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. Petitioners propose to validate an existing condition (side yard width) and obtain a building permit for the construction of a driveway partially located in front of the house. A variance of 1-foot left side yard width and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1947, contains 5,975 square feet, is zoned RSF-65 (Residential, Single Family-65) and is improved with a one-story single-family dwelling, open deck, concrete patio and shed. Exhibits (Exhs.) 2, 3, 5, 6, and 7 (A) thru (G).

2. The subject property is predominately rectangular in shape with the right rear side lot line angled in toward the lot. Exhs. 2 and 4.

3. Petitioners propose to validate an existing condition (side yard width) and obtain a building permit for the construction of a driveway partially located in front of the house. A variance of 1-foot left side yard width and a waiver of the parking area location requirement are requested. As the property was created prior to zoning, the left side yard setback is deficient by 1 foot requiring a validation of current conditions. The addition of the driveway, being located in front of the dwelling is due to the lot being only 50 feet in width making it impossible to place the driveway on the side of the house. Exhs. 2, 3, 5, 6, and 7 (A) thru (G).

4. Petitioner Diego Cuellar Cornejo, testified that he wished to construct a driveway in front of the house. A driveway is needed as the neighbor's park in front of his house, so he has no access to the off-street parking. He will have to park far away and walk home. In addition, with children, it is dangerous to get their children in and out of the vehicle on the street as the street is very narrow. The driveway will stop at the front of the house and will not go beyond that footprint. Exhs. 2, 3 and 4 (A) thru (G).

5. Contractor Wyron Morales stated that part of the driveway is in front of the house and part is on the side of the house. There are existing driveways in the neighborhood. The neighbor on the right currently has a driveway. Exhs. 2, 3 and 4 (A) thru (G).

6. Board Member Isler questioned the width of the driveway being 14 feet wide and why it needed to be that wide? Wyron Morales responded that they wished to park two cars in the driveway side by side. The Petitioners have two compact cars. Exh. 2.

7. Per Wyron Morales, in regard to the Apron Permit, Site Road Section advised the Petitioners that the plan was approved, but unfortunately, Site Roads has not currently sent the plans to the Petitioners. The approved driveway dimensions are 14 feet in width by 29 feet in length and the apron span/approach is 16 feet in width from wing to wing. In addition, there will be a curb stop at the top of the driveway which will be 3 feet from the house. Exhs. 2, 3 and 4 (A) thru (G).

8. Wyron Morales further stated that there is a small tree that will be relocated for the construction of the driveway. Exhs. 2, 3 and 4 (A) thru (G).

9. Woodlawn Community Association, Inc. has been advised of the Petitioners request, although to date no comments have yet to be submitted.

Madam Chair made a motion to continue the case for the Homeowners Association response and for the approved Site Road stamped plan. Motion carried 4/0.

On September 13, 2023, the record was reheard.

1. Ms. Stone noted that the stamped approved Site Road approved plans have been submitted as well as a letter from the Homeowners Association has been submitted. Exhs. 15 and 20.

2. Vice Chair Isler read the Homeowners Association (HOA) letter into the record. Exh. 15.

3. In response to the HOA letter, Carlos Morales noted that the Petitioner will be relocating the small tree two feet away and there is no intention to open an auto repair shop at his residence.

4. Edwin E. Valle Cuellar explained that the reason for the driveway extension is the lack of street parking on a very narrow street. And for the safety of his children entering and exiting the car. In addition, having to park a distance away, especially with the children in bad weather.

5. Board Member Alston questioned the HOA letter and the lack of definitive support or opposition. Board Member Isler agreed and stated that in light of that this is why he wanted to clarify there would be no auto repair and the tree would be saved; so, if need be, the Board could report that back to the HOA and it would be in line with their concerns. Exh. 15.

6. Mr. Isler stated that looking at the photos, it does look as if the street is very narrow and there are other driveways in the immediate area so it would not be out of character or uncommon to the neighborhood. In addition, the Petitioner testified that they do have small children and having to park far away with the children may be difficult and that there is no sidewalk. Exhs. 2, 4 (A) thru (G) and 7 (A) thru (G).

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional

topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);

- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

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 27-3613(d), more specifically:

Due to the property being subdivided in 1947 prior to the adoption of the Zoning Ordinance, the street being very narrow with limited parking that was not self-inflicted by the owner, with no sidewalks, the safety of the Petitioners' 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 owners of the property as it would circumvent the Petitioners from parking within proximity of their property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Bobbie Mack and Ms. Anastasia Johnson absent, that a variance of 1-foot left side yard width and a waiver of the parking area location requirement in order to validate an existing condition (side yard width) and obtain a building permit for the construction of a driveway partially located in front of the house on the property located at 6950 Greenvale Parkway, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances are contingent upon development in compliance with the approved revised site plan, Exhibit 20.

BOARD OF ZONING APPEALS

By: Bobbie S. Mack
Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency:

By: Ellis F. Watson
Ellis F. Watson (Oct 18, 2023 08:33 EDT)

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 27-3613(c)(10)(B) 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.

ADMINISTRATOR

(EXCLUDING D.C. & BALT. CITY)