



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-44-23 Maria Herrera Cortes and Sandy Vivar Herrera

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: November 29, 2023

CERTIFICATE OF SERVICE

This is to certify that on February 14, 2024 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone".

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: Maria Herrera Cortes and Sandy Vivar Herrera

Appeal No.: V-44-23

Subject Property: Lot 31, Block N, Defense Heights Subdivision, being 4802 Stockton Lane, Hyattsville, Prince George's County, Maryland.

Heard: September 13, 2023; Decided: December 13, 2023

Spanish Language Interpreter Provided on November 29, 2023: Ernesto Luna

Board Members Present and Voting: Bobbie S. Mack, Chairperson¹

Carl Isler, Vice Chairman

Renee Alston, Member

Board Members Absent: Teia Hill, Member

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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve variances from Section 27-4202(e)(1) which prescribes that a lot shall have a minimum width of 65 feet at the building line. Section 27-4202(e)(3) which prescribes that each lot shall have a side yard at least 8 feet in width. Section 27-11002 (1)(a) which prescribes that no parking space, parking area, or parking surface other than a driveway no wider than its associate 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 existing conditions (lot width at the building line and side yard width) and obtain a building permit to extend the driveway partially located in front of the house. Variances of 5 feet lot width at the building line, 8 feet right side yard width and waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1953, contains 6,904 square feet, is zoned RSF-65 (Residential, Single-Family-65) and is improved with a 2-story single-family dwelling, concrete driveway, two sheds and fence. Exhibits (Exhs.) 2, 3, 5, 6, and 7 (A) thru (F).

2. The subject property has a unique trapezoidal shape with the rear lot line being angled. The dwelling is sitting on a mound that slopes down toward the street. The driveway is on a slight slope as well. Due to the configuration of the house, lengthening the driveway is not an option. Exhs. 2, 3, 5, 6, and 7 (A) thru (F).

3. Petitioners propose to validate existing conditions (lot width at the building line and side yard width) and obtain a building permit to extend the driveway partially located in front of the house. Variances of 5 feet lot width at the building line, 8 feet right side yard width and waiver of the parking area location requirement are requested. Exhs. 2, 3, 5, 6, and 7 (A) thru (F).

¹ Board Members Mack, Isler, and Alston were present and voted at the December 13, 2023, final vote. Board Members Hill and Johnson were absent on December 13, 2023.

4. Petitioner Sandy Vivar Herrera², spoke regarding her mother who is also the property owner does not speak English. Ms. Sandy Herrera will be testifying only.

5. Board Member Isler questioned whether the request would need Site Road approval since the work being done is the driveway extension. Administrator Stone noted the Petitioners are not requesting additional apron or curb cut, but the site plan demonstrates both a curved line that is scratched out and a straight line. Ms. Celeste Barlow (staff member) noted that when they originally submitted the application it had a curved drive, but when she spoke to the applicant, it was indicated the curve is no longer being pursued, the requested intention is a straight line from the stoop to the front property line. Administrator Stone noted that with that information, they will need Site Road approval if the apron is being expanded. Exhs. 2, 4 (A) thru (F).

6. Board Member Isler advised the Petitioners that prior to our review, she must obtain Site Road approval.

7. Administrator Stone noted that on Photo Exhibit 4(A), the extension has been constructed by the laying of gravel. In response, Ms. Herrera noted that had not received any violation from an inspector. In addition, a portion of the fence will be removed. She also noted that Stockton Lane is extremely narrow. Exhs. 2, and 4 (A).

8. Board Member Isler questioned if Site Road will review the two sheds in the rear. Administrator Stone responded that no, Site Road will not review the sheds. The sheds do not require a variance.

9. Ms. Herrera noted that the neighborhood does not have a homeowner's association.

A motion was made by Board Member Isler and seconded by Board Member Alston to continue this case in order to obtain the Site Road approval. Motion carried 3/0. (Isler, Alston, and Hill).

Note: Petitioner was advised that in the next hearing, if an interpreter is requested, we can schedule a Spanish speaking Interpreter.

On November 29, 2023, this case was introduced, although the Petitioners did not appear. The case was rescheduled for December 13, 2023.

Case reviewer Olga Antelo Vasquez noted that a revised site plan was submitted with only initials. It was advised by the Administrator that we cannot accept initials, an approved stamp from the Site Road Section must be shown on the site plan.

A motion was made by Chair Mack and seconded by Board Member Isler that this case be rescheduled to December 13, 2023. Motion carried 4/0. (Mack, Isler, Hill, and Alston).

On December 13, 2023, this case was heard as a Discussion/Decision item.

1. Petitioner had submitted revised site plan, although, the Site Road approval stamp was not shown on the site plan. Administrator Stone noted for the record, that she has been in touch with the Site Road Engineer (Rey De Guzman) and that he confirmed that the initials are his. Therefore, the Board can accept his initials. Mr. De Guzman did approve a new 16.5' driveway apron, existing driveway to be replaced as concrete. He required the right-side yard setback of 3.5' setback. This satisfies the Board's concerns. Exh. 19.

A motion was made to approve V-44-23 and seconded by Chair Mack. Motion carried 3/0. (Mack, Isler, and Alston).

² Petitioner noted that her mother, Maria Herrera Cortez speaks and understand a small bit of English. But she is mainly Spanish speaking. Ms. Sandy Herrera cannot translate for her mother during the hearing. If she would like a translator, we can reschedule this hearing to provide an interpreter. Per Ms. Sandy Herrera, will not need an interpreter at this point. Ms. Sandy Herrera will be testifying. Ms. Maria Herrera Cortez was not sworn in and will not testify.

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 need to validate existing conditions being lot width, front yard depth and side yard width as the house was constructed in 1953, the need for additional parking as Stockton Lane is extremely narrow, due to the configuration of the house, the driveway lengthening is not an option due to the exceptional narrowness, shallowness, shape and topographic conditions peculiar to this property 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. Further, the Board considered the evidence in the record to determine this variance will not substantially impair the use and enjoyment of adjacent properties. Additionally, this house being constructed in 1953 prior to the adoption of the Prince George's County Zoning Ordinance, proves that the practical difficulty was not self-inflicted by the current owners of this property.

BE IT THEREFORE RESOLVED, by majority vote, Board Members Hill and Johnson absent, that a 5 feet lot width at the building line, 8 feet right side yard width and waiver of the parking area location requirement in order to validate existing conditions (lot width at the building line and side yard width) and obtain a building permit to extend the driveway partially located in front of the house on the property located at 4802 Stockton Lane, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 19.

BOARD OF ZONING APPEALS

By:

Bobbie S. Mack

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:

Ellis Watson

Ellis Watson (Feb 12, 2024 14:56 EST)

Ellis Watson, Esq.

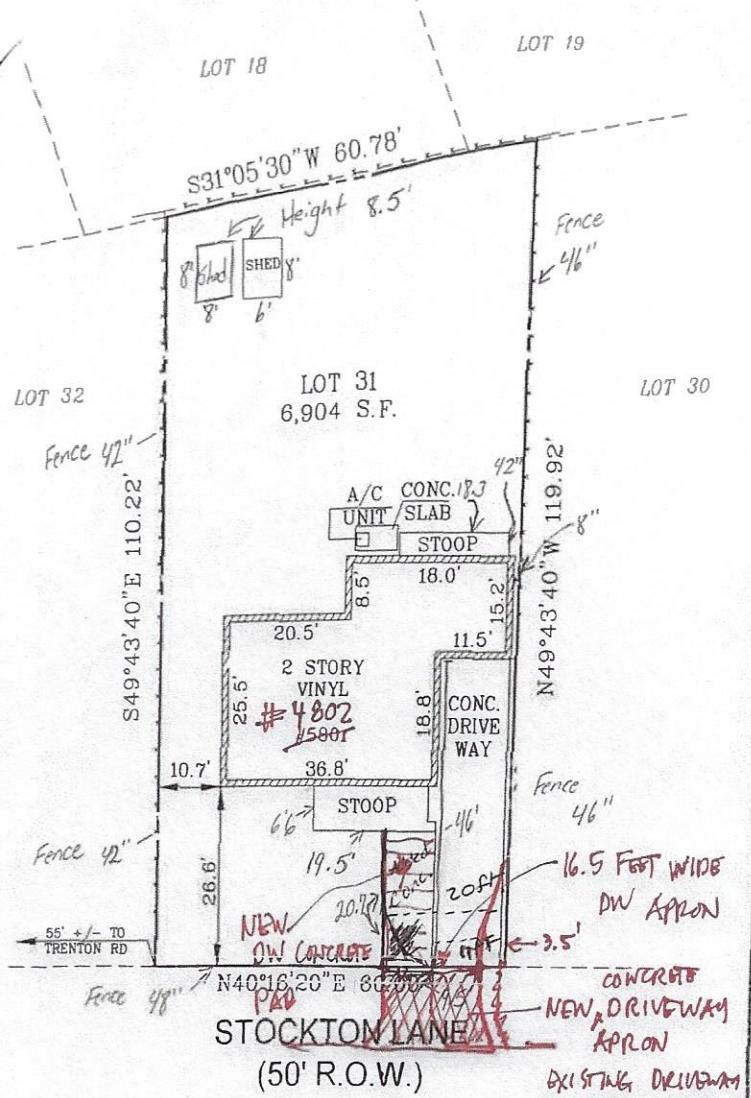
NOTICE

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.

3055-2023

ADDRESS 4802 STOCKTON LANE
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D WCG

NOTES:

1. THIS IMPROVEMENT LOCATION DRAWING:
A. IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING;
B. IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS.
C. DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.
2. THE LEVEL OF ACCURACY OF APPARENT SETBACK DISTANCES IS FIVE FOOT, MORE OR LESS.
3. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
4. SUBJECT TO ALL EASEMENTS ON RECORD.
5. A BOUNDARY SURVEY IS RECOMMENDED.
6. SDA, LLC ASSUMES NO RESPONSIBILITY FOR CHANGES MAY ACCUR TO THIS PLAT AFTER THE DATE OF SIGNATURE BY THE LICENSED SURVEYOR.

11/13/2023

SCALE: 1" = 20'

DRAWN BY: CE

I HEREBY CERTIFY THAT LOCATION DRAWING ARE LOCATED AS SHOWN HEREON ARE TO THE BEST OF MY INFORMATION, PROFESSIONAL KNOWLEDGE AND BELIEF THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN.

4/27/21
DATELOCATION DRAWING
BLOCK N LOT 31
SUBDIVISION: DEFENCE HEIGHTS
ELECTION DISTRICT: 02
PRINCE GEORGE'S COUNTY, MARYLAND

PLAT # 23@96 PROPERTY OWNER: MARIA ANTONIA HERRERA VIVAR SANDY HERRERA

SURVEYORS DEVELOPMENT & ASSOCIATES LLC

LAND SURVEYORS' ENGINEERS' PLANNERS'
WWW.SURVEYORSALLC.COM
email: surveyorsallc@gmail.com PHONE# 301-919-3639
3230 CHILLUM ROAD
MOUNT RAINIER MD, 20712

EXH. #

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V-44-23

BOARD OF APPEALS

APPROVED NOV 29 2023

ADMINISTRATOR