



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-43-23 Enrique Acero

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 8, 2023.

CERTIFICATE OF SERVICE

This is to certify that on _____, 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", is placed 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

Petitioner: Enrique Acero

Appeal No.: V-43-23

Subject Property: Lot 22, Block Y, Lincoln Subdivision, being 9947 Elm Street, Lanham, Prince George's County, Maryland.

Witness: Marlene Canedo, Permit Service

Heard: September 13, 2023; Decided: November 8, 2023

Spanish Language Interpreter: Ruben Sotogomez

Board Members Present and Voting: Carl Isler, Acting Vice Chair¹

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 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 27-3303 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-4202(c) which prescribes that each lot shall have a minimum net lot area of 20,000 square feet. Section 27-4202(c)(1) which prescribes that a lot shall have a minimum width of 80 feet at the building line and a lot frontage a minimum width of 70 feet at front street line. 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, except a "dwelling, townhouse" or "dwelling, multifamily", in the area between the front street line and the sides of the dwelling. Petitioner proposes to validate existing conditions (net lot area, lot width at the building line, frontage width at front street line and parking area location) and obtain a building permit for the proposed driveway extension. Variances of 13,219 square feet net lot area, 30 feet lot width at the building line, 20 feet lot width at front street line and waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1908, contains 6,781 square feet, is zoned RR (Rural, Residential) and is improved with a single-family dwelling, driveway, shed and driveway extension. Exhibits (Exhs.) 2, 3, 8,9 and 10 (A) thru (F).
2. The subject property has a uniquely shaped parallelogram orientation. Exhs. 2 and 3.
3. Petitioner proposes to validate existing conditions (net lot area, lot width at the building line, frontage width at front street line and parking area location) and obtain a building permit for the proposed

¹ Chair Mack and Board Member Johnson were absent at the September 13th Board Meeting. Acting Vice Chair Isler and Board Member Johnson were absent at the November 8th Board Meeting.

driveway extension. Variances of 13,219 square feet net lot area, 30 feet lot width at the building line, 20 feet lot width at front street line and waiver of the parking area location requirement are requested. Exhs. 2, 3, 8,9 and 10 (A) thru (F).

4. DPIE has issued Petitioner a Correction Order to obtain a building permit for the driveway extension and multiple accessory structures. Exhs. 5 and 6.

5. Petitioner testified that he has three (3) vehicles and is able to park only two (2) cars in the driveway. He explained that he cannot park on the street. He began parking on the yard on the side and receive a citation. He then parked partially on the street and his yard as there are no sidewalks, the yard abuts the asphalt. He was advised by the Revenue Authority that if it happened again, he would be given a fine. He cannot park on the street as there is a sign indicating that there is no parking on the street. Plus, the street is very narrow. Exhs. 2 and 4 (A) thru (E).

6. Board Member Isler questioned the Petitioner in regard to any existing bollards or curbing to protecting the house from vehicles from the driveway extension? Petitioner stated there is nothing built to stop cars from running into the house. Exh. 2.

7. Board Member Alston question if the proposed work has already been completed? Petitioner responded he constructed the extension because he was under pressure to find additional parking for his vehicles and stop receiving violation notices. Petitioner noted that he does work for a concrete company and so he completed the work. He was unaware that he needed a permit. Exhs. 5 and 6.

8. Board Member Alston noted that she does not understand why the Petitioner was "under pressure" and she noted that the Correction Order speaks of accessory structures; is this the shed? If the variance is not approved; does that mean he must tear down the shed and remove the driveway extension? Administrator Stone responded that this is a Department of Permitting, Inspections and Enforcement (DPIE) issue and not a Board of Appeals issue, only speaking without confirmation, but in order for the violation to be resolved the variance would have to be granted and permits obtained. As stated prior this would be a decision by DPIE, if the variance and permits are not obtained, it would only be assumed that the structure would have to be removed. Exhs. 5 and 6.

9. Petitioner stated that there is only one shed remaining, another shed has been removed. The smaller shed was removed. Exh. 2.

10. Administrator Stone noted for the record, a site plan with the Site Road Approval stamp has been submitted for the driveway and driveway extension and apron. Exh. 2.

11. Board Member Isler made a motion to continue the case for technical assistance. He wishes the Petitioner to provide some type of barrier between the driveway and the basement sidestep structure. Also wish for an Inspector be present at the next hearing. Motion carries 3/0.

On November 8, 2023, the case was continued and heard by the Board.

1. Marlene Canedo testified that the last hearing the Board suggested that put a barrier between the driveway and the side basement entrance.

2. Administrator Stone reminded the Chair that this case was originally heard on September 13, 2023, and continued in order for the Petitioner to submit revised plans to demonstrate a barrier between the driveway and the basement entrance on the side of the house. In addition, a request was made for Inspector Swann to be present at this hearing.

3. Madam Chair made a motion to adopt the testimony from the September 13, 2023, hearing. Motion carries 3/0.

4. Administrator Stone noted that revised site plans have been submitted demonstrating the curb stop between driveway and the basement entrance. She also noted that the Site Road approval is noted on the revised site plan. (Exh. 22).

5. Mr. Swann noted that he had no issues with the revised plans or the site.

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 variances comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to the existing conditions needing validation, the need to validate the unauthorized construction of driveway extension which need to accommodate three (3) vehicles on the property, street parking being prohibited (by signage), to avoid further fines, 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. Furthermore, the unique orientation of Petitioner's property being a parallelogram denying request would result in a peculiar and usual practical difficulty to the owner. Additionally, the narrowness of the street and inability to park on said street was not self-inflicted by the Petitioner and does not substantially impair the use and enjoyment of adjacent properties.

BE IT THEREFORE RESOLVED, by majority vote, Mr. Isler and Ms. Johnson absent, that variances of 13,219 square feet net lot area, 30 feet lot width at the building line, 20 feet lot width at front street line and waiver of the parking area location requirement in order to validate existing conditions (net lot area, lot width at the building line, frontage width at front street line and parking area location) and obtain a building permit for the proposed driveway extension. on the property located at 9947 Elm Street, Lanham, 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 22.

BOARD OF ZONING APPEALS

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

Approved for Legal Sufficiency

By: *Ellis Watson*
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.

Signature: *Ellis F. Watson*
Ellis F. Watson (Jan 23, 2024 13:22 EST)

Email: efwatson@co.pg.md.us

