



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-73-23 Tanya Byfield

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: March 27, 2024.

CERTIFICATE OF SERVICE

This is to certify that on May 30, 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", 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: Tanya Byfield

Appeal No.: V-73-23

Subject Property: Lot 33, Bock 101, West Lanham Hills Subdivision, being 7727 Emerson Road,
Hyattsville, Prince George's County, Maryland

Heard: January 24, 2024; Decided: March 27, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Carl Isler, Vice Chairman
Renee Alston, Member
Teia Hill, 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(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) 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. The Petitioner proposes to validate existing conditions (lot width at the building line and side yard) and obtain a building permit for the proposed driveway in front of the house. Variances of 12 feet lot width at the building line, 4 feet side yard width, and a waiver of the parking area location are requested.

Evidence Presented

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

1. The property was subdivided in 1940 prior to the adoption of the Prince George's County Zoning Ordinance, contains 7,685 square feet, is zoned RSF-65 (Residential, Single-Family-65), and is improved with a single-family dwelling, deck, and shed.
2. The subject property is rectangular in shape and located in a cluster development that commonly contained similarly sized, unique parcels as compared to surrounding developments.
3. Petitioners propose to validate existing conditions (lot width at the building line and side yard) and obtain a building permit for the proposed driveway in front of the house. Variances of 12 feet lot width at the building line, 4 feet side yard width, and a waiver of the parking area location are requested.
4. The Petitioner testified that she would like to install a driveway. She has submitted an application for the permit and an apron permit. The Site Roads Section has approved the site plan to include a 26' x 20' driveway with an apron; however, a variance will be needed as the driveway is located in front of the dwelling. The driveway is attached to the walkway. If a separation is necessary, the parcel contains adequate space for this separation.

5. Madam Chair recommended a 3-foot separation between the walkway and driveway, which the Petitioner agreed to provide the separation.

6. Board Member Isler questioned the location of the proposed driveway on this side of the house as opposed to the other side of the house. The Petitioner responded that there is a large cherry blossom tree on the other side of the house that she does not want to remove.

7. The petitioner further testified that she purchased the property in 2012, and back then, parking was not a problem. However, most of the neighbors have driveways, and in the last couple of years, there have been major issues trying to find parking. It has become very frustrating.

8. Chair Mack questioned if this is a rental property. The Petitioner confirmed that, yes, this is a rental. Currently, there is no tenant in the property. She and her husband are currently residing on the property, as their home flooded two years ago, and they have been in litigation with their insurance company. So, they have been residing in the subject property since, so that is how she knows the parking situation.

9. Administrator Stone questioned the variance criteria; asking about the topography of the subject property. Petitioner responded that the property is mostly flat. Where the property meets the neighbors, there is a slight slope, but nothing major.

10. Board Member Isler noted that there is an electric pole on the right side of the house that is unique to the Petitioner's property that would also limit the location of the driveway.

11. Administrator Stone noted that, for the record, this property is not located within the city limits of Hyattsville.

12. Ms. Byfield responded to Administrator Stone's question regarding if the variance was not approved, how would that impact her? Ms. Byfield noted that she will be moving back to her home in a month, so it will not affect her, but she is thinking about the tenants who will be moving in. If she had such a difficult time having to park down the street and then walk to the house, she thought that the next tenant that moves in would experience this inconvenience.

13. Administrator Stone noted that the criteria specifically states that the variance cannot be for the mere convenience of the resident. Unfortunately, the Board cannot take into account convenience. Ms. Byfield noted that she does not understand why her property would not be authorized for a driveway when most of the neighbors have driveways. Administrator Stone noted that the Council has recently put back into the code, the limitation of the location of driveways. Due to the tree and the telephone pole, that limits you. Being that the house was built in 1939, some of the existing driveways may have been constructed prior to the Prince George's County Zoning Ordinance itself or prior Zoning Ordinance. This is why the justification is needed.

14. Ms. Byfield further noted that it is unfair that she is restricted when there are clearly other driveways. The neighborhood has changed drastically, and she does have a mobility-challenged mother-in-law who resides with her. She would have to drop her off and then go find a parking space.

15. Ellis Watson noted that one of the criteria is if the property is out of character with the neighborhood. The Petitioner did mention that the neighbors have driveways. Is there anywhere in the exhibits? Madam Chair noted that exhibit 8(b) demonstrates the neighbor's driveway.

16. Board Member Alston noted that exhibit 8 (f) is also a good example.

17. Petitioner noted that the neighbor across the street has two driveways on both sides of their house, and the neighbor next to him has a driveway as well. All the neighbors across the street have driveways. The neighbor directly to the right does not have a driveway. But two houses up, that neighbor does have a driveway. It is more than likely that the next renter may have children or may have mobility issues.

18. Mr. Isler suggested to the Petitioner to obtain photographs of the other homes with driveways.

19. The petitioner noted that if she gets home at night, she feels unsafe having to park down the street and walk home in the dark.

20. Chair Mack noted that there should be a space between the walkway and the driveway. The Board would like to have a break between the two so cars will not park on the walkway. Petitioner noted that a fence is existing. She could possibly fence around the driveway. Administrator Stone noted that a revised site plan would be required.

A motion was made by Chair Mack to hold the record open for additional photos and a revised site plan. A second was made by Board Member Isler. Motion carried 3/0. (Mack, Isler, and Alston)

On February 2, 2024, the record was heard as a Discussion/Decision case, although the Petitioner has not submitted the revised plans as of yet. A motion was made by Chair Mack to hold the record open for additional photos and a revised site plan. A second was made by Board Member Isler. Motion carried 3/0. (Mack, Isler, and Alston)

On February 21, 2024, the record was heard as a Discussion/Decision case. For the record, Chair Mack was absent. Ms. Hill has read the record in order to vote. The Petitioner has submitted the revised site plan and the additional photos. Petitioner has revised the plan demonstrating a fence surrounding the driveway, although the height of the fence was not indicated on the site plan. The case reviewer can contact the Petitioner and include the height of the fence. A motion was made by Vice Chair Isler to hold the record open for a revised site plan. A second was made by Board Member Alston. Motion carried 3/0. (Isler, Alston, and Hill)

The record was heard as a Discussion/Decision case on March 27, 2024. The petitioner submitted a revised site plan demonstrating the 4-foot fence that will surround the driveway. In addition, the Petitioner submitted photographs of neighboring driveways.

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 character of the neighboring properties, which have driveways, the need for accessibility issues for the Petitioner's mother, which has mobility constraints, 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. Furthermore, the Petitioner's property contains an electric utility pole that is unique to this parcel, which makes it impractical to construct a driveway on the side of the property. Additionally, this unique attribute of the location of the utility pole would prevent the Petitioner from constructing a driveway that most of her neighbors currently have. Lastly, there is no evidence in the record that illustrates this variance will substantially impair the use and enjoyment of adjacent properties, and the driveway has not been constructed so there is no evidence in the record of the practical difficulty being self-inflicted.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Hill absent, that variances of 12 feet lot width at the building line, 4 feet side yard width, and a waiver of the parking area location in order to validate existing conditions (lot width at the building line and side yard) and obtain a building permit for the proposed driveway in front of the house on the property located at 7727 Emerson Road, Hyattsville, 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 16.

BOARD OF ZONING APPEALS

By: 

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: 

Ellis Watson (May 30, 2024 08:31 EDT)

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 27-3313(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.

BOARD OF APPEALS

APPROVED MAR 27 2024

Bob Glor
ADMINISTRATOR

Bob Glor
ADMINISTRATOR

THE LEVEL OF ACCURACY OF DISTANCES TO APPARENT PROPERTY LINES IS: 1

1'±

LOCATION DRAWING OF:
#7727 EMERSON ROAD
LOT 33 BLOCK 101
SECTION ONE
WEST LANHAM HILLS
PLAT BOOK 7 PLAT 90

PRINCE GEORGE'S COUNTY, MARYLAND
SCALE: 1"=20' DATE: 01-09-2023
DRAWN BY: AP FILE #: 230106-200

DRAWN BY: A.W. FILE #: 250100-1

LEGEND:

- = LINE
- B/E = BUILDING ENTRANCE
- B/W = BAY WINDOW
- = BRICK
- BRL = BLDG. RESTRICTION LINE
- BSMT = BASEMENT
- C/S = CONCRETE STOOP
- CON = CONCRETE
- D/W = DWELLING
- EX = EXISTING
- F.R. = FRAME
- MAC = MACADAM
- N/F = NOW OR FORMERLY
- OH = OVERHANG
- PUE = PUBLIC UTILITY ESMT.
- PI = PUBLIC IMPROVEMENT ESMT.
- C/L = CLOTHESLINE

COLOR KEY:
(RED) - RECORD INFORMATION
(BLUE) - IMPROVEMENTS
(GREEN) - ESMTS & RESTRICTION LINES

A Land Surveying Company

DULEY
and
associates, Inc.

14604 Elm Street, Upper Marlboro, MD 20772

Phone: 301-888-1111

Fax: 301 888 1114

Fax: 301-888-1114
On the web: www.duley.biz



SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SETFORTH IN REGULATION 12 CHAPTER 03.03.06 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDING, OR OTHER IMPROVEMENTS; THIS PLAT 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. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INSO FAR AS IT IS PROVIDED BY A LENDER OR A TITLE INSURANCE COMPANY OR A CONSTRUCTION COMPANY WITH THE CONSIDERATION OF TRACED, FINANCING OR REFINANCING, OR ENCROACHMENT AGENTS FOR THIS DRAWING. THIS PLAT IS THE PROPERTY OF THE SURVEYOR OR BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

EXH. # 16
V-73-23

DULEY & ASSOC.
WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.

(EXCLUDING P. O. & BANKS, 2000)